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SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[Amdt. 4]

PART 891—DOMESTIC BEET SUGAR AREA

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 891 (32 F.R. 7837, 8283; 33 F.R. 62, 402, 2503, 9331; 34 F.R. 809, 3737) is amended as follows:

1. Section 891.1 is amended by adding a new paragraph (s) to read as follows:

§ 891.1 Regulations, as effective, and definitions.

* * * * *

(s) "Accredited acreage" for any crop year means the acreage of sugar beets within farm proportionate shares, when applicable, but excluding any acreage for which credit may not be given pursuant to § 895.6 of this chapter, which was either harvested for the extraction of sugar or liquid sugar as determined by the county committee or was determined by a member of the county committee to be bona fide abandoned acreage to the extent of fulfilling at least the requirements for abandonment set forth in subparagraphs (1) through (5) of § 842.2(a) of this chapter as shown by the records of the ASCS county office. It also includes any prevented acreage approved for the farm or recorded for the allotment area pursuant to Part 849 of this chapter and for any year for which proportionate shares are determined, any proportionate share acreage released and approved for the farm pursuant to Part 895 of this chapter shall be included as accredited acreage for the farm and for the allotment area in which such farm is located.

2. Section 891.6 is amended to read as follows:

§ 891.6 Compliance with other conditions of payment.

(a) *Wage rates and prices paid for sugar beets.* All requirements of the Act and the regulations issued pursuant thereto with respect to wage rates and in case of a processor-producer, prices paid for sugar beets shall be met.

(b) *Compliance with farm share.* The acreage of sugar beets grown on the farm and marketed (or processed) and used for the production of sugar or liquid sugar shall not exceed the share determined for the farm in accordance with applicable regulations in Part 850 of this chapter, except as provided in § 891.16, and except that any sugar beets grown on acreage in excess of such share may be marketed (or processed) for the extraction of sugar or liquid sugar for livestock feed or for the production of livestock feed if the operator of the farm furnishes weight tickets to the county committee evidencing that such sugar beets were sold by him, or were processed by or for him, for the extraction of sugar or liquid sugar for livestock feed, or for the production of livestock feed, and if so sold, were purchased by the processor for such purpose. Notwithstanding the foregoing provisions of this paragraph, the farm shall be deemed to have met the requirements for payment with respect to marketings (or processings) within the share where sugar beets were marketed (or processed) for sugar from an acreage on the farm exceeding the share: *Provided*, That (1) such excess acreage is not more than the larger of four-tenths acre or 2 percent of the share but not in excess of 5 acres, (2) the county committee finds that the farm operator did not intentionally market (or process) sugar beets from an acreage in excess of the share for the farm and the State committee concurs in such findings, and (3) within 1 year from the date of the processing of such excess sugar beets, the farm operator has arranged for the raw value equivalent of sugar produced from sugar beets in the Domestic Beet Sugar Area which had not been marketed to fill a quota for such area as provided in Part 816 of this chapter to be made subject to a bond given pursuant to the provisions of such Part 816 of this chapter, which provides as a condition of such bond that the sugar shall be used for livestock feed or for the production of livestock feed. The Sugar Act payment in such case shall be limited to the amount of sugar commercially recoverable from the sugar beets marketed (or processed) from the acreage within such share.

3. Section 891.11 is revised to read as follows:

§ 891.11 Credit for planted sugar beet acreage, prevented acreage and approved released acreage.

(a) *Crediting production record of farms which are subdivided.* For the purpose of compiling sugar beet production records for use in establishing proportionate shares, when required, and for use in determining normal yields for abandonment and crop deficiency payments, as provided in Part 841 of this chapter, the production record for a subdivision of any farm which is divided shall be credited with its actual planted acreage, approved prevented acreage determined under Part 849 of this chapter and approved acreage eligible for release determined under Part 895 of this chapter if available from records in the ASCS county office. However, if such records are not available in such office, the production records of the subdivisions shall be credited with a pro rata share, respectively, of the planted acreage, approved prevented acreage and approved released acreage of the farm on the basis of the cropland suitable for the production of sugar beets in each subdivision.

(b) *Death, retirement, or incapacity.* In case of death, retirement, or incapacity of an operator having a personal sugar beet production record, such record shall accrue to the legal representative of his estate or to a member of his family if such legal representative or family member continues the customary sugar beet operations of the retired, deceased or incapacitated operator.

(c) *Corporations.* (1) In case of the merger or consolidation of two or more corporations in a personal history area, the accredited acreage record of any of the constituent corporations shall be credited to the surviving or consolidated corporation if the surviving or consolidated corporation operates land for the production of sugar beets.

(2) The personal sugar beet production records of individuals or of a partnership forming a corporation may only be credited to such corporation at the time it is formed, and only if the county committee determines and the State committee concurs that all of the outstanding shares of stock of the corporation are owned by members of the immediate family, of which one or more members has a personal accredited acreage record in the base period at the time the corporation is formed. Thereafter, such production records will be credited to such corporation, except that if at the time a proportionate share is established for the farm operated by the corporation, less than a majority of the outstanding shares of stock of the corporation are owned by members of such immediate family such production records will cease to be credited to such corporation.

(3) For the purpose of this section the term "immediate family" is limited to persons who have a relationship to the persons credited with the personal sugar beet production records of spouse, father, mother, brother, sister, children, and grandchildren, regardless of whether such persons reside in the same household.

(4) Upon the dissolution of a corporation, no personal history credits of the corporation shall be transferred to individuals, except, that in the case of the dissolution of a corporation of which a majority of the stock is owned by members of the immediate family that included members owning stock in the corporation when it was formed, the history credit of such corporations may be transferred to such individual members of the immediate family owning stock at the time of dissolution in the same ratio that the number of shares of stock owned

by each member of the immediate family in such corporation bears to the total shares of stock issued by such corporation.

(d) *Initiation of joint operation.* Where a person having a personal accredited acreage record in a personal history area and another person or persons initiate a joint operation of a farm for the production of sugar beets by a partnership or other form of joint enterprise, the farm base shall be established on the basis of acreage not exceeding the landowner's share of the sugar beet crops included in the farm's accredited acreage records; but a farm base may be established on a basis of acreage not limited to the landlord's share of such sugar beet crops where the county committee determines, and a representative of the State committee concurs, that such joint enterprise is conducted exclusively by the members of an immediate family, or that under such joint enterprise the person or persons having a personal production record during the base period are the operators of the farm as provided in § 891.1(j).

(c) *Dissolving of partnership.* If, in a personal history area, a partnership is dissolved, the accredited acreage record of the partnership shall be credited to the indiviuals who were members of the partnership, pro rata, on the basis of their respective contributions of sugar beet production history to such partnership at the time it was formed: *Provided, however,* That if such dissolved partnership was in existence for at least 3 years, the accredited acreage record of the partnership may be credited to each of the former partners in accordance with a written agreement signed by all of the former partners or their legal representatives.

4. Section 891.12 is revised to read as follows:

§ 891.12 List of prescribed forms.

Forms prescribed for the conditional payment program in the Domestic Beet Sugar Area, including those applicable when proportionate shares are in effect.

Form No. and Title

SU-100—Request for Sugar Beet Proportionate Share.
SU-102—Sugar Beet Farming Unit Report.
SU-103—Notice of Sugar Beet Farm Proportionate Share.
SU-103-A—Notice of History Credit for Released Share.
SU-104—Sugar Beet Record Card.
SU-104-1—Personal Sugar Beet Proportionate Share.
SU-105—Release of Sugar Beet Proportionate Share.
SU-107—Sugar Beet Marketing Report.
SU-109-A—Sugar Beet Normal Yield Worksheet.
SU-110—Application for Payment.
SU-112—List of Sugar Beet Producers.
SU-113—Farm Operator Check and Record Sheet.
SU-114—Summary of Applications for Payments.
SU-115—Child Labor and Wage Compliance Report.
SU-191—Claim Against Producer for Unpaid Wages.
SU-195—Sugar Act Payments Deductions.

5. New §§ 891.13 through 891.17 are added to read as follows:

§ 891.13 Eminent domain.

The share established for a crop designated by year for a farm which was removed from sugar beet production in its entirety or in part by acquisition within 3 years immediately preceding the year designating such crop by an agency or entity entitled to exercise the right of eminent domain, shall, upon application by the owner of the land so removed to the appropriate ASCS State office, be added to the share established for such crop for any land owned by the owner in the same State to the extent requested in the application, but the acreage added shall no exceed the difference between the share established for the farm from which production was removed and the share established for the part of such farm not lost by the acquisition. Where application is not made as provided in this section for the entire share or part thereof established for the farm, the share or part thereof not applied for shall be reserved by the State committee for 3 years after the date of acquisition or until application is made by the owner of the land removed, whichever is earlier: *Provided,* That such reserved share or part thereof shall be subject to any adjustments required to be made in establishing shares for old-producer farms under the regulations applicable during the period the share is reserved. The acreage of such reserved shares not applied for may not be reallocated to other old-producer farms.

§ 891.14 Notification of shares when shares are in effect.

Each person filing a request for a share shall be notified in writing on behalf of the State committee of the share established in response to his request (even if "none"), and of any subsequent adjustment or change made in such share, and of his right to appeal under § 891.7. The farm operator of each farm for which a share is redetermined shall be notified in writing on behalf of the State committee of the redetermined share and of the right to appeal therefrom as provided in Part 780 of this chapter. Where a tentative share is computed pursuant to a preliminary request for a share filed as provided in Part 850 of this chapter, the person filing such request shall be furnished a notice informing him that the acreage stated thereon is a tentative share, does not constitute the establishment of a farm share for the purpose of payment under the Act, and that a farm share for such purpose may be established only upon the filing of a fully completed request for a share within the time and in the manner as provided in Part 850 of this chapter.

§ 891.15 Notification of excess sugar beet acreage when shares are in effect.

If the county committee determines for any crop that the acreage of sugar beets on any farm is in excess of the acreage established as the share for such farm, written notice of such excess acreage and of the eligibility requirements for payment relating to the farm's proportionate share shall be mailed to the person who is listed on the ASCS county office records as the operator of the farm.

§ 891.16 Erroneous notice of share or of excess sugar beet acreage when shares are in effect.

If through error, an operator is officially notified of a share for his farm greater than the share properly established, or is furnished an incorrect notice of excess sugar beet acreage, or if the determined acreage of sugar beets is in excess of the share for the farm and notice thereof is not mailed to the operator, and it is found by the county committee that such operator, acting solely on the information contained in the erroneous notice or without a notice of excess sugar beet acreage being mailed to him, markets sugar beets from an acreage in excess of the share properly established, the farm will be deemed to be in compliance with the correct share unless sugar beets are marketed for sugar from an acreage in excess of the share stated in the erroneous notice, or unless it is determined by the county committee that the error in the share or notice was so gross, or that the excess acreage was so gross as to place the operator on notice regarding the error in the share or of the existence of the excess acreage. However, the Sugar Act payment with respect to the farm shall be limited to the amount of sugar determined by the county committee to be commercially recoverable from the sugar beets marketed (or processed) from the acreage within the properly established share.

§ 891.17 Certification of acreage.

If the operator of any farm, which is located in a county designated in Part 718 of this chapter, as a county in which farm operators' certification of acreage and land use may be accepted with respect to sugar beets in lieu of a farm inspection and measurement, fails to file a timely report as required under such Part 718 or files a timely report showing that the acreage of sugar beets is within the proportionate share for the farm and it is later determined by the county or State committee that such acreage is in excess of the share and was knowingly incorrectly reported by the farm operator, no payment shall be made with respect to such farm.

Statement of bases and considerations. Prior to the 1962 crop of sugar beets, some of the general provisions and requirements of the Act which must be complied with in order to be eligible for Sugar Act payments were contained in the annual proportionate share regulations. Since proportionate shares are not necessarily required each year, these provisions were incorporated into Part 891.

Suggestions have been received that additional provisions which have heretofore been included in the former proportionate share regulations and have

remained unchanged from year to year also be incorporated into Part 891.

This action adds the definition of accredited acreage to Part 891. It also adds the provisions pertaining to crediting acreage history in the event of the death, retirement, or incapacity of an operator and in the formation and dissolving of corporations and joint operations. Section 891.12 is revised to include the forms which are applicable where proportionate shares are in effect. Other general provisions which, in the past, were included in the proportionate share regulations when shares were in effect but which have remained unchanged from year to year, are also added.

Accordingly, I hereby find and conclude that the foregoing regulations will effectuate the applicable provisions of the Act.

(Secs. 301, 302, 403, 61 Stat. 929, 930 as amended, 932; 7 U.S.C. 1131, 1132, 1153)

Effective date: Date of publication.

Signed at Washington, D.C., on July 30, 1969.

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

[F.R. Doc. 69-9162; Filed, Aug. 4, 1969; 8:48 a.m.]

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

[Valencia Orange Reg. 286, Amdt. 1]

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

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 33 F.R. 19829) regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provision in paragraph (b)(1) (i), (ii), and (iii) of § 908.586 (Valencia Orange Reg. 286, 34 F.R. 12224) are hereby amended to read as follows:

(i) District 1: 252,000 cartons;
(ii) District 2: 343,000 cartons;
(iii) District 3: 105,000 cartons.

§ 908.58 Valencia Orange Regulation 286.

* * * * * * *

(a) * * *
(1) * * *

* * * * * * *

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

Dated: July 31, 1969.

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

[F.R. Doc. 69-9164; Filed, Aug. 4, 1969; 8:48 a.m.]

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

[Milk Order 36]

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area (7 CFR Part 1036), it is hereby found and determined that:

(a) The following provision of the order does not tend to effectuate the declared policy of the Act for the month of July 1969.

In § 1036.16(b), the provision:

(4) In any month of April through July, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted; and

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

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

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

(3) Suspension of the aforesaid provision will result in all producer milk that is diverted from a pool plant to a nonpool plant during July 1969 being priced at the location of the pool plant from which diverted. Such provision now specifies that under certain conditions the diverted milk be priced at the location of the nonpool plant to which diverted.

This action was requested by Milk Producers Federation, a principal producer cooperative in the market, to accommodate the handling of reserve milk. The cooperative operates a pool plant at Orrville, Ohio, which is an outlet near the marketing area for milk not needed by handlers for Class I purposes. Because of an electrical power failure caused by severe storms, this plant was unable to operate during part of July. Producer milk normally received at such plant thus had to be diverted to distant nonpool plants where a lower price to producers applies under the order.

The suspension will avoid an undue reduction in returns to producers normally shipping to the Orrville plant but whose milk was temporarily diverted to other plants because of the unusual circumstances. Three other cooperatives in the market expressed support for this suspension action.

(4) Interested parties were afforded the opportunity to file written data, views, or arguments concerning this suspension (34 F.R. 12043). None were filed in opposition to the proposed suspension.

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

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for July 1969.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 30, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69-9132; Filed, Aug. 4, 1969; 8:45 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

PART 1407—SUSPENSION AND DEBARMENT

Part 1407 is revised to read as follows:

Sec.
1407.1 Purpose.
1407.2 Definitions.
1407.3 Scope of this part.
1407.4 Suspension.
1407.5 Causes for debarment.
1407.6 Suspension pending debarment, notice of proposed debarment, decision of authorized official and right to hearing.
1407.7 Period of debarment.
1407.8 Restrictions on suspended and debarred persons.
1407.9 Miscellaneous.

AUTHORITY: The provisions of this Part 1407 issued under sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b.

§ 1407.1 Purpose.

This part prescribes the terms and conditions under which persons may be suspended and debarred from contracting with Commodity Credit Corporation and from otherwise participating in programs administered or financed by Commodity Credit Corporation.

§ 1407.2 Definitions.

(a) The term "Department" means the U.S. Department of Agriculture.

(b) The term "CCC" means Commodity Credit Corporation.

(c) The term "Executive Vice President" means the Executive Vice President of CCC.

(d) The term "Vice President" means a Vice President of CCC.

(e) The term "Deputy Vice President" means a Deputy Vice President of CCC.

(f) The term "person" means an individual or any form of business entity, e.g., a proprietorship, partnership, corporation, association, or cooperative.

(g) The term "authorized official" means the Executive Vice President of CCC, a Vice President of CCC, a Deputy Vice President of CCC, or any official of the Department authorized, as provided in this part, to suspend and debar persons.

(h) The term "suspend" or "suspension" means the withholding from a person temporarily of the privilege of contracting with or otherwise participating in programs financed or administered by CCC.

(i) The term "debar" or "debarment" means the final action of withholding the privilege of contracting with or otherwise participating in programs financed or administered by CCC.

(j) The term "Board of Contract Appeals" means the Board of Contract Appeals, Department of Agriculture.

§ 1407.3 Scope of this part.

(a) The provisions of this part shall apply to all suspensions and debarments: *Provided*, That the provisions of this part shall not apply to or otherwise affect the conditions under which:

(1) Price support or other benefits may be made available by CCC to a person in his capacity as a producer in accordance with applicable statutes and regulations.

(2) CCC may require persons to establish and maintain financial responsibility and other qualifications as conditions precedent to contracting with CCC or otherwise participating in programs administered or financed by CCC.

(3) CCC may cancel or terminate a contract under the provisions thereof or for failure of the contractor to comply therewith or may take administrative action to require a contractor or participant to correct deficiencies in the performance of contract or program provisions.

(4) Persons are debarred under the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 37) and Davis-Bacon Act (40 U.S.C. 276a–2(a)).

(b) All suspension and debarments under the provisions of this part shall extend to and include any proprietorship, corporation, partnership, association, or other business entity, the policies or business practices of which are decided or materially influenced by the suspended or debarred person if such proprietorship, corporation, partnership, association, or other business entity is specifically named in the notice of suspension or debarment.

(c) The provisions of this part shall not be construed to require the suspension and debarment of any person but shall be deemed a statement of the terms and conditions under which suspension and debarment action may be taken by an authorized official when such action is deemed to be in the best interests of CCC.

§ 1407.4 Suspension.

(a) Suspension is a drastic action and, as such, shall not be based upon an unsupported accusation. In assessing whether adequate evidence exists for invoking a suspension, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, investigation reports, if available, and correspondence. Suspension is for the purpose of protecting the interest of CCC and not for punishment. A suspension may be modified whenever it is determined to be in the interest of CCC to do so.

(b) An authorized official may, upon probable cause for belief that one or more of the causes for debarment specified in § 1407.5 exist, suspend any person on written notice and without hearing for periods not longer than those specified in this section. Such notice shall be sent to the suspended person and to all other individuals or business entities who are to be suspended because their policies or business practices are decided or materially influenced by the suspended person. The notice shall state the grounds for the suspension, without disclosing the evidence, and shall specify the suspension period.

(c) All suspensions shall be for a temporary period of not more than 1 year except as otherwise specified in this part. If civil or criminal action has not been initiated by the Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless the Attorney General, or his designee, requests continuance of the suspension. If such a request is received, the suspension may be continued for an additional 6 months. A suspension shall not continue beyond 18 months unless civil or criminal action involving the fact situation upon which the suspension action was taken has been initiated within that period. Whenever such legal action has been initiated, the suspension may continue until the legal proceedings are completed.

(d) The termination or extension of a suspension shall not prejudice any debarment action which may be or may have been taken.

§ 1407.5 Causes for debarment.

Any authorized official may debar a person whenever he determines, in the manner specified in this part, that one or more of the following causes for debarment exists:

(a) The person has been convicted of a criminal offense involving CCC or has been adjudged liable to the United States by a court of competent jurisdiction under the civil False Claims Statute (31 U.S.C. 231), or other Federal statute, in connection with a CCC program.

(b) The person has been debarred or otherwise forbidden from contracting with or participating in contracts or programs administered or financed by another agency of the U.S. Government.

(c) The person has failed to perform obligations or carry out representations or warranties to CCC, or has made misrepresentations to CCC, under circumstances considered to be of such a serious and compelling nature as to justify debarment.

(d) The person has committed other acts of misconduct, including but not limited to fraudulent activities, showing such a serious lack of business integrity or business honesty as to warrant debarment.

§ 1407.6 Suspension pending debarment, notice of proposed debarment, decision of authorized official and right to hearing.

(a) Debarment proceedings may be instituted by any authorized official without prior suspension action having been taken or while a period of suspension is in effect. In either event, the notice of proposed debarment may provide for a period of suspension or a continuation of any period of suspension which may be in effect. Any such suspension shall continue until completion of the debarment proceedings including such time as may be required for an appeal to the Board of Contract Appeals: *Provided, however*, That any such suspension shall not exceed a period of 120 days from the date of the notice of proposed debarment or 120 days after the expiration of any period of suspension imposed under the provisions of § 1407.4, whichever period expires last: *And provided further*, That any such period of suspension shall be increased by the period of any extension granted the appellant, on his request, for prosecution of his appeal.

(b) Debarment proceedings shall be instituted by any authorized official by sending a notice of proposed debarment to the person concerned and to all other individuals or business entities who are to be debarred because their policies or business practices are decided or materially influenced by him, at the last known address of each such person, by certified mail, return receipt requested. Such notice shall set forth:

(1) The name of the person debarred together with the names of all other individuals or business entities who are

to be debarred because their policies are decided or materially influenced by him;

(2) One or more of the causes for debarment specified in this part;

(3) A brief statement of facts showing the basis for the belief that one or more of the causes for debarment specified in this part exist; and

(4) A statement that all persons included in the debarment may, within the period stated in the notice, present information for consideration in their behalf.

(c) If no response is received from any such persons within the time limit specified in the notice or any written extension thereof, the issue of debarment shall be determined by the authorized official upon the basis of such information as may be available to him bearing upon the causes for debarment specified in the notice. If such persons, in response to the notice of proposed debarment, submit information for consideration on their behalf, such information, together with such other data as may be available to the authorized official, shall be considered by him in making his determination on the issue of debarment.

(d) Each such person shall be notified of the decision of the authorized official, of the findings of fact on which it is based, and of any period of debarment, by certified mail, return receipt requested, addressed to his last known address. If such person is debarred, such notice shall also advise him that he may appeal the debarment action to the Board of Contract Appeals within 30 days after the date he receives the notice. Any such appeal shall be subject to the rules of the Board of Contract Appeals (Part 2400 of this title). If appealed the debarment shall be deferred pending decision of the Board of Contract Appeals, but such person may be suspended or continued in a suspended status until final decision, as provided in this § 1407.6. On determination of the appeal by the Board of Contract Appeals, the appellant shall be notified by certified mail, return receipt requested, addressed to his last known address, of the Board's decision and of any period of debarment determined by the Board. The decision of the Board on the issue and period of debarment shall be final and conclusive, unless determined by a court of competent jurisdiction to be fraudulent, arbitrary, capricious, or so grossly erroneous as to imply bad faith or not supported by substantial evidence. If no appeal is filed with the Board of Contract Appeals, the decision of the authorized official on the issue and period of debarment shall have a like degree of finality.

§ 1407.7 Period of debarment.

All debarments shall be for a period commensurate with the gravity of the cause therof. As a general rule, periods of debarment in excess of 3 years will not be imposed but such policy shall not preclude the impositions of longer periods of debarment in flagrant cases. If debarment is preceded by suspension, consideration may be given to such period of suspension in determining the period of debarment. At any time during the period of debarment, the debarment may be removed or otherwise modified if it is determined by the Executive Vice President, Vice President, or Deputy Vice President that such action is warranted. Nothing in this § 1407.7 shall preclude the institution of new debarment proceedings during the pendency of an existing debarment or following its termination: *Provided*, That such new debarment proceedings shall be based upon facts and circumstances other than those underlying the original debarment.

§ 1407.8 Restrictions on suspended and debarred persons.

Persons who are suspended or debarred under this part shall be subject to all of the following restrictions except to the extent that the notice of suspension or debarment otherwise specifically provides:

(a) No suspended or debarred person may contract with CCC or participate in any manner in any programs administered or financed by CCC: *Provided*, That current contracts with or other firm commitments of CCC to such persons shall be continued in effect notwithstanding the suspension or debarment unless such suspension or debarment specifies in writing that such contracts or commitments shall also be subject to such suspension and debarment action. However, any warehouse facilities operated by any suspended or debarred person may be removed from the lists maintained by CCC of warehouses approved for price support program purposes.

(b) No offers or proposals shall be solicited from suspended or debarred persons and if submitted by such persons shall not be considered in making awards.

(c) If a suspended or debarred person is proposed as a subcontractor, supplier, or agent the contracting officer shall decline to consent to the use of such person as a subcontractor, supplier, or agent. If CCC gives written notice to a person participating in a program administered or financed by CCC of the identity of a suspended or debarred person, such participant shall not use such suspended or debarred person as a subcontractor, supplier, agent, or employee in connection with such participant's performance under such program.

(d) Funds due or to become due any suspended or debarred person may be withheld in whole or in part in accordance with the Setoff, Withholding, and Stop Payment Policies of CCC (Part 1408 of this subchapter).

(e) Any or all of the restrictions for which provision is made under this § 1407.8 may be waived in whole or in part on written determination by the Executive Vice President, Vice President, or Deputy Vice President that such waiver of the restriction or restrictions involved is essential to carrying out the functions and responsibilities of CCC and is otherwise in the public interest. Any such waiver shall be effective only with respect to the transactions or categories of transactions specified therein.

§ 1407.9 Miscellaneous.

(a) The Executive Vice President, Vice President, or Deputy Vice President may delegate to such other employees of the Department, as he deems appropriate, authority to carry out the provisions of this part and all such persons to whom such authority has been delegated shall be deemed authorized officials within the meaning of this part.

(b) The issuance of this revised part shall not affect any suspensions and debarments imposed under the CCC suspension and debarment regulations heretofore in effect (29 F.R. 10495; 31 F.R. 4950).

Effective date: Date of publication.

Signed at Washington, D.C., on July 23, 1969.

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

Approved: July 28, 1969.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 69-9131; Filed, Aug. 4, 1969; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 23,077]

PART 545—OPERATIONS

PART 556—STATEMENTS OF POLICY

Amendments Relating to Applications for Branch Offices

JULY 25, 1969.

Resolved that, notice and public procedure having been duly afforded (34 F.R. 8973) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines that it is advisable to amend §§ 545.14 and 556.5 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14, 556.5) for the purpose of permitting the consideration and processing of applications for the establishment of branch offices, without regard to the eligibility requirements contained in subparagraphs (2) and (4) of paragraph (b) of § 545.14, with respect to particular applications for branches to serve low income, innercity areas which are inadequately served by existing savings and loan facilities. Accordingly, said §§ 545.14 and 556.5 are hereby amended as follows, effective July 31, 1969:

1. Paragraph (b) of § 545.14 is amended by changing the period at the end of subparagraph (6) thereof to a semicolon and by adding immediately thereafter a new proviso, to read as follows:

§ 545.14 Branch Office.

* * * * *

(b) *Eligibility.* * * *

(c) * * * *Provided, however,* That the Board may, with respect to a particular application, determine to consider and process that application without regard to the eligibility requirements contained in subparagraphs (2) and (4) of this paragraph.

* * * * *

2. Section 556.5 is amended by adding a new paragraph (d) at the end thereof, to read as follows:

§ 556.5 Establishment of branch offices and mobile facilities.

* * * * *

(d) As a general policy under § 545.14 (b), the Board will not consider or process any application by a Federal association for permission to establish a branch office unless the applicant association meets all of the eligibility requirements contained in subparagraphs (1) through (6) of § 545.14(b). However, under the proviso to paragraph (b) of § 545.14, the Board may, in its discretion, permit the consideration and processing of particular branch applications even if the applicant association fails to meet the eligibility requirements contained in subparagraphs (2) and (4) of § 545.14 (b). It is the intention of the Board to permit this special treatment only in connection with applications for branches to serve low income, innercity areas which are inadequately served by existing savings and loan facilities.

Applicant associations wishing such special treatment with respect to a particular application must furnish the Supervisory Agent with detail information demonstrating that the application (or a prior branch application, if it is still pending or if less than 12 months have expired from the date of publication of notice thereof and the branch is not yet opened) is for a branch office (1) to be located within an area characterized by substandard family incomes, chronically high unemployment, a high percentage of welfare recipients, and substandard housing, and (2) to fulfill the objectives of facilitating the granting of loans in such area, particularly for construction or rehabilitation of housing, stimulating thrift and providing financial guidance among low-income residents of such area, and providing opportunities for employment or job training for residents of such area. If the Supervisory Agent is satisfied that the above criteria for special treatment of the application have been met, he may determine that the association is eligible under § 545.14(g), and the application may be processed as provided therein.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 69-9165; Filed, Aug. 4, 1969; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

SULFAMETHAZINE; WITHDRAWAL TIME

No comments were received in response to the notice published in the FEDERAL REGISTER of June 5, 1969 (34 F.R. 8973), proposing that the food additive regulation providing for use of sulfamethazine in the treatment of food-producing animals be amended to change the withdrawal time for a sustained-release bolus from 15 to 21 days.

Accordingly, the Commissioner of Food and Drugs concludes that the proposed amendment should be adopted. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1786; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 2.120):

Section 121.293 *Sulfamethazine* is amended in item 1 of the table by changing under "Limitations" the number "15" to "21" so that the statement reads "do not slaughter for food within 21 days of treatment;".

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably 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 the date of its publication in the FEDERAL REGISTER.

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: July 29, 1969.

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

[F.R. Doc. 69-9116; Filed, Aug. 4, 1969; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-EA-85]

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

Alteration of Control Zone and Transition Areas

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Portland, Maine, control zone (34 F.R. 4616) and transition area (34 F.R. 4748); Waterville, Maine (34 F.R. 4782), Newport, Vt. (34 F.R. 4735), and Red Hook, N.Y. (34 F.R. 4753) transition areas.

The alterations occur because of name changes of the airports upon which the zone or areas are predicated. Since these amendments are editorial in nature and impose no additional burden, notice and public procedure thereon are unnecessary and the amendments may be made effective in less than 30 days.

The Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Portland, Maine, Waterville, Maine, Newport, Vt., and Red Hook, N.Y., the amendment is herewth made effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Portland, Maine, control zone, the name "Portland Municipal Airport" and insert in lieu thereof "Portland International Jetport".

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete in the description of the Portland, Maine, transition area the name "Portland Municipal Airport" and insert in lieu thereof the name "Portland International Jetport"; and

(b) Delete in the description of the Waterville, Maine, transition area, the name "Robert LaFleur Airport" and insert in lieu thereof "Waterville Robert LaFleur Airport"; and

(c) Delete in the description of the Newport, Vt., transition area the name "Newport Airport" and insert in lieu thereof "Newport State Airport"; and

(d) Delete in the description of the Red Hook, N.Y., transition area the name "Skypark Airport" and insert in lieu thereof "Stark-Tator Skypark".

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655 (c))

Issued in Jamaica, N.Y., on July 23, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 69-9123; Filed, Aug. 4, 1969; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9722; Amdt. 660]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending § 97.11 of Subpart B to amend low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lexington VOR	LE LOM	Direct	2600	T-dn	300-1	300-1	200-½
Richmond Int	LE LOM	Direct	2600	C-dn	400-1	500-1	500-1½
Keene Int	LE LOM (final)	Direct	2600	S-dn-4	400-1	400-1	400-1
McAfee Int	LE LOM	Direct	2500	A-dn	800-2	800-2	800-2
Chaplin Int	Keene Int	Via R 264°, LEX VOR.	2500				

Procedure turn W side of crs, 222° Outbnd, 042° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 042°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.5 miles after passing LE LOM, climb to 2800′ on crs 042° to the Fayette Int., hold N, 1-minute right turns, 222° Inbnd, or when directed by ATC, climb to 2600′ via R 303° of LEX VORTAC to Bridgeport Int; hold W on R 080° LOU VORTAC, 1 minute, right turns, 080° Inbnd.
MSA within 25 miles of facility: 000°–180°—3000′; 180°–270°—2500′; 270°–360°—2300′.

City, Lexington; State, Ky.; Airport name, Blue Grass; Elev., 978′; Fac. Class., HW; Ident., LE; Procedure No. NDB (ADF) Runway 4, Amdt. 6; Eff. date, 21 Aug. 69; Sup. Amdt. No. 5; Dated, 15 Aug. 68

2. By amending § 97.11 of Subpart B to delete low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Berlin, N.H.—Berlin Municipal, NDB (ADF)-1, Amdt. 5, 28 Jan. 1967 (established under Subpart C).
Evansville, Ind.—Dress Memorial, NDB (ADF) Runway 21, Amdt. 4, 24 Feb. 1968 (established under Subpart C).
Fargo, N. Dak.—Hector, NDB (ADF) Runway 17, Amdt. 3, 16 Sept. 1967 (established under Subpart C).
Fargo, N. Dak.—Hector, NDB (ADF) Runway 35, Amdt. 18, 12 Aug. 1967 (established under Subpart C).
Marshfield, Wis.—Marshfield Municipal, NDB (ADF) Runway 5, Amdt. 1, 20 May 1967 (established under Subpart C).
Spencer, Iowa—Spencer Municipal, ADF 1, Amdt. 1, 4 Dec. 1965 (established under Subpart C).
Berlin, N.H.—Berlin Municipal, VOR-1, Orig., 28 Jan. 1967 (established under Subpart C).
Dublin, Ga.—Dublin Municipal, VOR-1, Amdt. 1, 14 May 1966 (established under Subpart C).
Evansville, Ind.—Dress Memorial, VOR-1, Amdt. 3, 24 Feb. 1968 (established under Subpart C).
Fargo, N. Dak.—Hector, VOR Runway 35, Amdt. 3, 12 Aug. 1967 (established under Subpart C).
Greenville, Miss.—Municipal, VOR 1, Amdt. 1, 18 Aug. 1966 (established under Subpart C).
Lafayette, La.—Purdue University, VOR 1, Amdt. 11, 30 Jan. 1965 (established under Subpart C).
Shelbyville, Ind.—Shelbyville Municipal, VOR Runway 18, Orig., 29 Feb. 1968 (established under Subpart C).

3. By amending § 97.11 of Subpart B to cancel low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

West Lafayette, Ind.—Purdue University, ADF 2, Orig., effective 1 Aug. 1964, canceled, effective 21 Aug. 1969.
Auburn, Ala.—Auburn-Opelika, VOR 1, Amdt. 3, effective 6 Nov. 1965, canceled, effective 21 Aug. 1969.
Lafayette, Ind.—Purdue University, VOR 2, Amdt. 9, effective 24 July 1965, canceled, effective 21 Aug. 1969.

4. By amending § 97.13 of Subpart B to delete terminal very high frequency omnirange (TerVOR) procedures as follows:

Eufaula, Ala.—Weedon Field, TerVOR-18, Orig., 23 June 1966 (established under Subpart C).

5. By amending § 97.17 of Subpart B to amend instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
LEX VOR	LE LOM	Direct	2600	T-dn¢	300-1	300-1	300-1½
McAfee Int	LE LOM	Direct	2500	C-dn	400-1	500-1	500-1½
Richmond Int	LE LOM	Direct	2600	S-dn-4*	400-1	400-1	400-1
Chaplin Int	Keene Int	Via R 264°, LEX VOR.	2500	A-dn	800-2	800-2	800-2
Keene Int	LE LOM (final)	Direct	2000				

Procedure turn W side of crs, 222° Outbnd, 042° Inbnd, 2000' within 10 miles.
Minimum altitude over LOM on final approach crs, 2000'.
Crs and distance, LOM to airport, 042°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2800' on crs, 042° to the Fayette Int. Hold N, 1-minute right turns, 222° Inbnd or when directed by ATC climb to 2600' via R 303° of LEX VORTAC to Bridgeport Int. Hold W on R 080° LOU VORTAC, 1 minute, right turns, 080° Inbnd.
*400-¾ (RVR 4000') authorized with operative high-intensity runway lights except for 4-engine turbojet aircraft.
¢RVR 2400' authorized Runway 4.
MSA within 25 miles of LOM: 000°-180°—3000'; 180°-270°—2500'; 270°-360°—2300'.

City, Lexington; State, Ky.; Airport name, Blue Grass; Elev., 978'; Fac. Class., ILS; Ident., I-LEX; Procedure No. LOC Runway 4, Amdt. 8; Eff. date, 21 Aug. 69; Sup. Amdt. No. ILS Runway 4, Amdt. 7; Dated, 15 Aug. 68

6. By amending § 97.17 of Subpart B to delete instrument landing system (ILS) procedures as follows:

Evansville, Ind.—Dress Memorial, ILS Runway 21, Amdt. 12, 24 Feb. 1968 (established under Subpart C).
Fargo, N. Dak.—Hector, LOC (BC) Runway 17, Amdt. 2, 16 Sept. 1967 (established under Subpart C).
Fargo, N. Dak.—Hector, ILS Runway 35, Amdt. 19, 12 Aug. 1967 (established under Subpart C).

7. By amending § 97.17 of Subpart B to cancel instrument landing system (ILS) procedures as follows:

West Lafayette, Ind.—Purdue University, ILS-10, Orig., effective 1 Aug. 1964, canceled, effective 21 Aug. 1969.

8. By amending § 97.23 of Subpart C to establish very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Frances Int.
CSG VOR	Mary Int	R 269°	2300	Climbing left turn to 2500' proceed to CSG VOR via R 269° and hold. Supplementary charting information: Hold E, 1 minute, right turns, 265° Inbnd. Final approach crs to runway threshold. LRCO, 122.1 MGM radio.

Procedure turn not authorized. Approach crs (profile) starts at Mary Int.
FAF, Frances Int. Final approach crs, 269°. Distance FAF to MAP, 5 miles.
Minimum altitude over Mary Int, 2300'; over Frances Int, 2300'.
MSA: 000°-090°—3500'; 090°-180°—3300'; 180°-360°—2300'.
NOTES: (1) Use Columbus, Ga., altimeter setting. (2) No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-28	1420	1	644	1420	1¼	644	1420	1¼	644	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1420	1	644	1420	1¼	644	1420	1¼	644	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Auburn; State, Ala.; Airport name, Auburn-Opelika; Elev., 776'; Facility, CSG; Procedure No. VOR Runway 28, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.2 miles after passing BML VOR, or over BML NDB.
Whitefield NDB	Berlin VOR	Direct	6500	Make right-climbing turn to BML VOR, cross VOR not less than 3000' climbing to *5000' in holding pattern. Supplementary charting information: Hold N of BML VOR, 1 minute, left turns, 192° Inbnd.

Procedure turn E side of crs, 012° Outbnd, 192° Inbnd, 4400' within 10 miles of BML VOR.
FAF, BML VOR. Final approach crs, 192°. Distance FAF to MAP, 3.2 miles.
Minimum altitude over BML VOR, 3300'.
MSA: 000°-090°—4800'; 090°-180°—5200'; 180°-270°—7400'; 270°-360°—5200'.
NOTES: (1) Use Montpelier, Vt., altimeter setting. (2) Approach from a holding pattern not authorized. Procedure turn required. (3) IFR departure: Over airport on a southbound heading at 2200' or above, make right-climbing turn to BML VOR, cross VOR not less than 3000'; climb in holding pattern to MSA or airway MEA.
*Minimum communications altitude, Boston ARTCC or Augusta FSS, 5000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	2900	2¼	1742	2900	3	1742	2900	3	1472	NA
A	Not authorized.		T 2-eng. or less—1000-1½.				T over 2-eng.—1000-1½.			

City, Berlin; State, N.H.; Airport name, Berlin Municipal; Elev., 1158'; Facility, BML; Procedure No. VOR Runway 18, Amdt. 1; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR-1, Orig.; Dated, 28 Jan. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 7.8 miles after passing DBN VOR.
VNA VOR	DBN VOR (NOPT)	Direct	2500	Climb to 2500', turn left, proceed to DBN VOR via R 069° and hold. Supplementary charting information: Hold SW, 1 minute, right turns, 069° Inbnd. Final approach crs to center of landing area. 3200' of lights available for night operations on Runways 1-19. Runway 1 threshold displaced 980' N. Runway 19 threshold displaced 820' S.

Procedure turn S side of crs, 249° Outbnd, 069° Inbnd, 2500' within 10 miles of DBN VOR.
FAF, DBN VOR. Final approach crs, 069°. Distance FAF to MAP, 7.8 miles.
Minimum altitude over DBN VOR, 2500'.
MSA: 000°-090°—1900'; 090°-180°—1800'; 180°-360°—2600'.
NOTES: (1) Use Macon, Ga., APC altimeter setting. (2) No weather reporting. (3) Night operation not authorized on Runways 14-32/8-26.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	920	1	610	920	1	610	920	1½	610	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Dublin; State, Ga.; Airport name, Dublin Municipal; Elev., 310'; Facility, DBN; Procedure No. VOR-1, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR 1, Amdt. 1 Dated, 14 May 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.9 miles after passing TVE VOR.
				Climbing right turn to 3000', direct to TVE VORTAC and hold. Supplementary charting information: Hold S, 1 minute, right turns, Inbnd crs 020°.

Procedure turn E side of crs, 200° Outbnd, 020° Inbnd, 3000' within 10 miles of TVE VORTAC.
FAF, TVE VORTAC. Final approach crs, 020°. Distance FAF to MAP, 5.9 miles.
Minimum altitude over TVE VORTAC, 2300'; over Smithfield Int., 1880'.
MSA: 000°-270°—3100'; 270°-360°—3500'.
NOTE: Use Allentown altimeter setting.
Night minimums not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C#	1560	1½	1082	1560	1¾	1082	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.	

City, East Stroudsburg; State, Pa.; Airport name, Stroudsburg Pocono; Elev., 478'; Facility, TVE; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 21 Aug. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: EUF VOR.
				Climb to 2000', right turn, proceed to EUF VOR via R 250° and hold. Supplementary charting information: Hold W, 1 minute, right turns, 076° Inbnd. Final approach crs intercepts runway centerline 3000' from threshold. LRCO, 122.1-123.6.

Procedure turn W side of crs, 012° Outbnd, 192° Inbnd, 2000' within 10 miles of EUF VOR.
Final approach crs, 192°.
MSA: 000°-090°—2100'; 090°-180°—1700'; 180°-270°—2500'; 270°-360°—1800'.
NOTES: (1) Use Lawson AAF altimeter setting. (2) No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-18	1000	1	725	1000	1	725	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1000	1	725	1000	1	725	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Eufaula; State, Ala.; Airport name, Weedon Field; Elev., 275'; Facility, EUF; Procedure No. VOR Runway 18, Amdt. 1; Eff. date, 21 Aug. 69; Sup. Amdt. No. TerVOR-18, Orig.; Dated, 23 June 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 12.4 miles after passing EVV VORTAC.
R 141°, EVV VORTAC CW	R 237°, EVV VORTAC (NOPT)	8-mile Arc	2100	Right-climbing turn to 2500' and proceed direct to EVV VORTAC or when directed by ATC, climb to 2200' and proceed direct to EV LOM.
R 308°, EVV VORTAC CCW	R 237°, EVV VORTAC (NOPT)	8-mile Arc	2100	
Ridgeway Int	EVV VORTAC (NOPT)	Direct	2100	
Weston Int	EVV VORTAC (NOPT)	Direct	2100	

Supplementary charting information: 619' water tank, 1.3 miles W of airport. 480' trees 1000' from Runway 21 threshold and 815' NW of runway centerline. 1471' tower, 7.5 miles E. Runway 3, TDZ elevation, 418'.

Procedure turn S side of crs, 237° Outbnd, 057° Inbnd, 2100' within 10 miles of EVV VORTAC.
FAF, EVV VORTAC. Final approach crs, 057°. Distance FAF to MAP, 12.4 miles.
Minimum altitude over EVV VORTAC, 2100'; over 10-mile DME Fix, 1520'.
MSA: 000°-180°—2500'; 180°-360°—1900'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	1102	1520	1	1102	1520	1¼	1102	1520	2	1102
VOR/DME Minimums:												
	MDA	VIS	HAA	MDA	VIS	HAA	MVA	VIS	HAA	MDA	VIS	HAA
C	920	1	502	920	1	502	920	1¼	502	980	2	562
A	1500-2.		T 2-eng. or less—Runways 9, 27, 300-1; Standard all others.				T over 2-eng.—Runways 9, 27, 300-1; Standard all others.					

City, Evansville; State, Ind.; Airport name, Dress Memorial; Elev., 418'; Facility, EVV; Procedure No. VOR Runway 3, Amdt. 4; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR-1, Amdt. 3; Dated, 24 Feb. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.4 miles after passing FAR VORTAC.
R 210°, FAR VORTAC CCW	R 180°, FAR VORTAC	7-mile Arc	2500	Climb to 2500' on R 360° within 10 miles; return to VORTAC. When directed by ATC, make left-climbing turn to 2800' on R 285° within 10 miles of VORTAC, return to VORTAC.
R 030°, FAR VORTAC CW	R 180°, FAR VORTAC	7-mile Arc	2500	
7-mile Arc, R 180°	FAR VORTAC (NOPT)	FAR R 180°	2500	

Supplementary charting information: Runway 35, TDZ elevation, 897'.

Procedure turn E side of crs, 180° Outbnd, 360° Inbnd, 2500' within 10 miles of FAR VORTAC.
FAF, FAR VORTAC. Final approach crs, 360°. Distance FAF to MAP, 9.4 miles.
Minimum altitude over FAR VORTAC, 2500'; over 6-mile DME Fix, 1600'.
MSA: 045°-135°—3000'; 135°-225°—2300'; 225°-045°—3200'.
NOTE: Inoperative component table does not apply to ALS or HIRL Runway 35 when using minimums without DME Fix.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	1600	RVR 50	703	1600	RVR 50	703	1600	RVR 60	703	1600	1¼	703
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1600	1	700	1600	1	700	1600	1¼	700	1600	2	700
VOR/DME Minimums:												
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	1340	RVR 24	443	1340	RVR 24	443	1340	RVR 24	443	1340	RVR 50	443
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1380	1	480	1380	1	480	1380	1¼	480	1460	2	560
A	Standard.		T 2-eng. or less—RVR 24', Runway 35; Standard all other runways.				T over 2-eng.—RVR 24', Runway 35; Standard all other runways.					

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900'; Facility, FAR; Procedure No. VOR Runway 35, Amdt. 4; Eff. date, 21 Aug. 69; Sup. Amdt. No. 3; Dated, 12 Aug. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.8 miles after passing GLH VOR.
				Climbing left turn to 1700' to GLH VOR and hold. Supplementary charting information: Hold N, 1 minute, right turns, 172° Inbnd. Chart airport beacon on tank, 282° on airport. LRCO, 122.1 R, 123.6 (GRW FSS). Runway 17L, TDZ elevation, 128'.

Procedure turn W side of crs, 352° Outbnd, 172° Inbnd, 1700' within 10 miles of GLH VOR.
FAF, GLH VOR. Final approach crs, 172°, Distance FAF to MAP, 1.8 miles.
Minimum altitude over GLH VOR, 800'.
MSA: 000°-090°—1600'; 090°-180°—2300'; 180°-270°—1600'; 270°-360°—1700'.
NOTE: Use Greenwood altimeter setting when control zone not effective and increase MDA 200' except operators with approved weather reporting service.
*Alternate minimums not authorized when control zone not effective except operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17L	400	1	272	400	1	272	400	1	272	400	1	272
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	600	1	469	600	1	469	600	1¼	469	700	2	569
A	Standard.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Greenville; State, Miss.; Airport name, Municipal; Elev., 131'; Facility, GLH; Procedure No. VOR Runway 17L, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR 1, Amdt. 1; Dated, 18 Aug. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.6 miles after passing Battle Int/7-mile DME Fix.
R 337°, LAF VORTAC CCW	R 323°, LAF VORTAC (NOPT)	7-mile Arc	2400	Right climbing turn to 2400° and proceed direct to LAF VORTAC.
R 312°, LAF VORTAC CW	R 323°, LAF VORTAC (NOPT)	7-mile Arc	2400	
West Point Int	LAF VORTAC	Direct	2400	
LAF VORTAC	Battle Int/7-mile DME Fix	R 143°, LAF VORTAC	1700	Supplementary charting information: 1320' tower 2.8 miles ESE of airport. 877' tower 1 mile NE of airport. 933' tower 2 miles N of airport. 754' tower 1.3 miles S of airport. 920' tower 4.5 miles NW of airport.

Procedure turn W side of crs, 323° Outbnd, 143° Inbnd, 2400' within 10 miles of LAF VORTAC.
FAF, Battle Int/7-mile DME Fix. Final approach crs, 143°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over LAF VORTAC, 2400'; over Battle Int/7-mile DME Fix, 1700'.
MSA: 000°-090°—2200'; 090°-360°—2400'.
NOTE: VOR/DME or VOR/ADF receivers required.
%IFR departure procedures: Runway 10, eastbound, climb to 1800' on heading 140°; Runway 5 departures eastbound, climb to 1800' on runway heading before proceeding on crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1180	1	575	1180	1	575	1180	1¼	575	1240	2	635
A	Standard.		T 2-eng. or less—Runway 5, 300-1; Standard all other runways.%				T over 2-eng.—Runway 5, 300-1; Standard all other runways.%					

City, Lafayette; State, Ind.; Airport name, Purdue University; Elev., 605'; Facility, LAF; Procedure No. VOR-1, Amdt. 12; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR 1, Amdt. 11; Dated, 30 Jan. 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Diane Int.
TYS VORTAC	Lee Int/15-mile DME Fix (NOPT)	TYS R 058°	4000	Climbing right turn to 4000' proceed to Lee Int via TYS VORTAC, R 058° and hold.
TYS VORTAC, R 352° CW	TYS VORTAC, R 058°	15-mile DME Arc	4000	
TYS VORTAC, R 100° CCW	TYS VORTAC, R 058°	15-mile DME Arc	4000	
Lee Int/15-mile DME Fix	Diane Int/25-mile DME Fix (NOPT)	TYS, R 058°	3000	Supplementary charting information: Hold NE, 1 minute, right turns 238° Inbnd. Final approach crs to runway threshold. Runway 5, TDZ elevation, 1299'.

Procedure turn not authorized. Approach crs (profile) starts at Lee Int.
FAF, Diane Int. Final approach crs, 058°. Distance FAF to MAP, 5 miles.
Minimum altitude over Lee Int/15-mile DME Fix, 4000'; over Diane Int/25-mile DME Fix, 3000'.
MSA: 000°-090°—8700'; 090°-180°—8700'; 180°-270°—6100'; 270°-360°—5600'.
NOTES: (1) Radar vectoring. (2) Use Knoxville, Tenn., APC altimeter setting. (3) No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-5	1960	1	661	1960	1¼	661	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	2120	1	821	2120	1¼	821	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Morristown; State, Tenn.; Airport name, Moore-Murrell; Elev., 1299'; Facility, TYS; Procedure No. VOR Runway 5, Amdt. Orig.; Eff. date, 21 Aug. 69

Terminal routes			Missed approach
From—	To—	Via	MAP: 4.9 miles after passing AUW VORTAC.
AUW VORTAC, R 271° CW	AUW VORTAC, R 037°	7-mile Arc	Climb to 3000' on R 217° within 10 miles, make left turn; return to VORTAC.
AUW VORTAC, R 171° CCW	AUW VORTAC, R 037°	7-mile Arc	
7-mile Arc	AUW VORTAC (NOPT)	AUW VORTAC, R 037°	Supplementary charting information: Final approach crs to airport reference point 44°46'38"/89°40'00".
		Minimum altitudes (feet)	
		3500	
		3000	
		2700	

Procedure turn E side of crs, 037° Outbnd, 217° Inbnd, 3000' within 10 miles of AUW VORTAC.
FAF, AUW VORTAC. Final approach crs, 217°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over AUW VORTAC, 2700'.
MSA: 000°-090°—2900'; 090°-180°—2900'; 180°-360°—3000'.
NOTES: (1) Use Wausau altimeter setting except for operators with approved weather reporting service. (2) Operators with approved weather reporting service may reduce all MDA's by 20'.
*Standard alternate minimums for operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	427	1760	1	487	1760	1½	487	1800	2	587
A	Not authorized.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Mosinee; State, Wis.; Airport name, Central Wisconsin; Elev., 1273'; Facility, AUW; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.1 miles after passing SHB VOR.
				Climbing right turn to 2400' direct to SHB VOR. Supplementary charting information: 1130' tower 1.7 miles SE of airport. Runway 18, TDZ elevation, 804'.

Procedure turn E side of crs, 330° Outbnd, 159° Inbnd, 2400' within 10 miles of SHB VOR.
FAF, SHB VOR. Final approach crs, 159°. Distance FAF to MAP, 3.1 miles.
Minimum altitude over SHB VOR, 1900'.
MSA: 000°-180°—2400'; 180°-360°—3100'.
NOTES: (1) Radar vectoring. (2) Use Indianapolis altimeter setting. (3) Final approach from holding pattern at VOR not authorized; procedure turn required.
CAUTION: 1130' tower 1.7 miles SE of airport.
%IFR departure procedures: Runways 9 and 18, maintain runway heading to 1600' before proceeding on crs.
*Night minimums not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-18*.....	1240	1	436	1240	1	436	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C*.....	1300	1	496	1300	1	496	NA	NA
A.....	Not authorized.		T 2-eng. or less—300-1 all runways. %				T over 2-eng.—300-1 all runways. %	

City, Shelbyville; State, Ind.; Airport name, Shelbyville Municipal; Elev., 804'; Facility, SHB; Procedure No. VOR Runway 18, Amdt. 1; Eff. date, 21 Aug. 69; Sup. Amdt. No. Orig.; Dated, 29 Feb. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 13-mile DME Fix LEU VORTAC.
LEU VORTAC.....	9-mile DME Fix (NOPT).....	Direct.....	2200	Make left-climbing turn to 2500' and return to LEU VORTAC. Supplementary charting information: Tower 1549', 6 miles SW LEU VORTAC.

Procedure turn not authorized. Approach crs (profile) starts at LEU VORTAC.
Final approach crs, 222°.
Minimum altitude over LEU VORTAC, 2200'; over 9-mile DME Fix, 2200'.
NOTE: Use Terre Haute altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C.....	1020	1	479	1020	1	479	NA	NA
A.....	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.	

City, Sullivan; State, Ind.; Airport name, Sullivan County; Elev., 541'; Facility, LEU; Procedure No. VOR/DME-1, Amdt. Orig.; Eff. date, 21 Aug. 69

9. By amending § 97.23 of Subpart C to amend very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 7.6 miles after passing BTR VORTAC.
Tate DME Fix	BTR VORTAC (NOPT)	Direct	1600	Climb to 1600', left turn to Clinton Int via BTR R 041° or, when directed by ATC, climb to 1000', right turn to Walker Int via BTR R 080°.

Supplementary charting information: Runway 4, TDZ elevation, 70'.

Procedure turn S side of crs, 345° Outbnd, 065° Inbnd, 1600' within 10 miles of BTR VORTAC.
FAF, BTR VORTAC. Final approach crs, 065°. Distance FAF to MAP, 7.6 miles.
Minimum altitude over BTR VORTAC, 1600'; over 5.8-mile DME Stepdown Fix, 740'.
MSA: 100°-190°—2800'; 190°-100°—1600'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-04	740	1	670	740	1	670	740	1¼	670	740	1¼	670
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	740	1	670	740	1	670	740	1½	670	740	2	670
	DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-04	520	1	450	520	1	450	520	1	450	520	1	450
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	560	1	490	560	1	490	560	1½	490	630	2	550
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Baton Rouge; State, La.; Airport name, Ryan; Elev., 70'; Facility, BTR; Procedure No. VOR Runway 4, Amdt. 9; Eff. date, 21 Aug. 69; Sup. Amdt. No. 8; Dated, 26 Sept. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.3 miles after passing DDC VORTAC.
R 073°, DDC VORTAC CCW	R 330°, DDC VORTAC (NOPT)	7-mile Arc	4100	Make left turn, climb to 4100', return to DDC VORTAC.
R 206°, DDC VORTAC CW	R 330°, DDC VORTAC (NOPT)	7-mile Arc	4100	

Supplementary charting information: Runway 14, TDZ elevation, 2583'.

Procedure turn W side of crs, 330° Outbnd, 150° Inbnd, 4100' within 10 miles of DDC VORTAC.
FAF, DDC VORTAC. Final approach crs, 150°. Distance FAF to MAP, 5.3 miles.
Minimum altitude over DDC VORTAC, 4100'.
MSA within 25 miles of facility: 000°-090°—3600'; 090°-180°—4000'; 180°-270°—4500'; 270°-360°—4100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-14	2860	1	277	2860	1	277	2860	1	277	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	3020	1	436	3060	1	466	3060	1¼	466	NA
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Dodge City; State, Kans.; Airport name, Dodge City Municipal; Elev., 2594'; Facility, DDC; Procedure No. VOR Runway 14, Amdt. 11; Eff. date, 21 Aug. 69; Sup. Amdt. No. 10; Dated, 3 Oct. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes			Minimum altitudes (feet)	Missed approach
From—	To—	Via		MAP: LAX VOR.
R 170°, LAX VOR CW	R 251°, LAX VOR	10-mile Arc LAX, R 239° lead radial.	2000	Climb to 2000' via LAX R 068° to Firestone Int.
R 046°, LAX VOR CCW	R 292°, LAX VOR	10-mile Arc	4200	Supplementary charting information.
R 292°, LAX VOR CCW	R 251°, LAX VOR	10-mile Arc LAX, R 263° lead radial.	2000	LAX VOR 4000' W of runways. Runway 7L, TDZ elevation, 125'. Runway 7R, TDZ elevation, 124'.
LAX R 251°/10 DME Fix	Del Rey VHF/DME Fix (NOPT)	Direct	1300	
LAX VOR	Del Rey VHF/DME Fix	Direct	2000	Bearing and distance from LAX VOR to Runway 7L, 061°—0.66 mile; Runway 7R, 071°—0.66 mile.

Procedure turn S side of crs, 251° Outbnd, 071° Inbnd, 2000' within 10 miles of Del Rey Int.
Final approach crs, 071°.
Minimum altitude over Del Rey VHF/DME Fix, 1300'.
MSA: 075°-255°—2000'; 255°-345°—5100'; 345°-075°—7200'.
NOTES: (1) ASR/PAR. (2) Sliding scale not authorized.
%IFR departure procedures: Northbound (280° CW through 060°) Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runways 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS.

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7L	560	RVR 40	435	560	RVR 40	435	560	RVR 40	435	560	RVR 50	435
S-7R	560	RVR 40	436	560	RVR 40	436	560	RVR 40	436	560	RVR 50	436
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1½	514	680	2	554
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, LAX; Procedure No. VOR Runway 7L/R, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. 1; Dated, 6 Feb. 69

Terminal Routes			Minimum altitudes (feet)	Missed approach
From—	To—	Via		MAP: Runway 25L and 25R, 5 miles after passing Freeway Int.
LAX VOR	Firestone Int	Direct	2500	Climb to 2000' direct to LAX VOR, then via LAX R 246° within 15 miles.
Seal Beach VOR	Firestone Int	Direct	3000	
R 323°, LAX FOR CW	R 046°, LAX VOR	15-mile Arc	4300	Supplementary charting information:
R 046°, LAX VOR CW	Firestone Int	15-mile Arc LAX, R 039° lead radial.	2000	Chart 2.5-mile DME, R 068° at MAP. Chart Downey NDB though not used in procedure.
R 123°, LAX VOR CCW	Firestone Int	15-mile Arc LAX, R 077° lead radial.	2000	Final approach crs 350' right of Runway 25L centerline and 350' left of Runway 25R centerline at 3000'. Runway 25L/R TDZ elevation, 100'.
Firestone Int	Freeway Int (NOPT)	Direct	2000	
Bassett Int	Firestone Int	Direct	2500	

Procedure turn S side of crs, 068° Outbnd, 248° Inbnd, 2500' within 10 miles of Freeway Int.
FAF, Freeway Int. Final approach crs, 248°. Distance FAF, to Map, 5 miles.
Minimum altitude over Freeway Int., 2000'; over Noel Int, 620.
MSA: 075°-255°—2000'; 255°-345°—5100'; 345°-075°—7200'.
NOTE: ASR/PAR.
%IFR departure procedures: Northbound (280° CW through 060°) Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25 L/R	620	RVR 24	520	620	RVR 24	520	620	RVR 24	520	620	RVR 50	520
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1½	514	680	2	554
	Dual VOR or VOR/DME Minimums:											
S-25 L/R	520	RVR 24	420	520	RVR 24	420	520	RVR 24	420	520	RVR 50	420
A	Standard.		T 2-eng. or less—Runway 8/26, Standard. %#				T over 2-eng.—Runway 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, LAX; Procedure No. VOR Runway 25L/R, Amdt. 3; Eff. date, 21 Aug. 69; Sup. Amdt. No. 2; Dated, 3 Apr. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.4 miles after passing MAF VOR TAC.
Tarzan Int	MAF VORTAC	Direct	4600	Climb to 4600' on R 150° within 20 miles. Supplementary charting information: Runway 16R, TDZ elevation, 2870'.
R 235°, MAF VORTAC CW	R 001°, MAF VORTAC	12-mile ARC MAF, R 351° lead radial.	4600	
R 117°, MAF VORTAC CCW	R 001°, MAF VORTAC	12-mile ARC MAF, R 011°, lead radial.	4600	
12-mile DME Arc	MAF VORTAC (NOPT)	R 181°	3000	

Procedure turn E side of crs, 001° Outbnd, 181° Inbnd, 4600' within 10 miles of MAF VORTAC.
FAF, MAF VORTAC. Final approach crs, 181°. Distance FAF to MAP, 3.4 miles.
Minimum altitude over MAF VORTAC, 3900'.
MSA: 000°-180°—4300'; 180°-360°—5100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-16R	3180	1	310	3180	1	310	3180	1	310	3180	1	310
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3320	1	450	3320	1	450	3320	1¼	450	3420	2	550
A	Standard.		T 2-eng- or less—Standard.				T over 2 eng.—Standard.					

City, Midland; State, Tex.; Airport name, Midland-Odessa Regional Air Terminal; Elev., 2870'; Facility, MAF; Procedure No. VOR Runway 16R, Amdt. 16; Eff. date, 21 Aug. 69; Sup. Amdt. No. 15; Dated, 13 June 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.8 miles after passing ARG VORTAC.
				Left-turn climb to 2000' on R 015° within 20 miles.

Procedure turn S side of crs, 239° Outbnd, 059° Inbnd, 2000' within 10 miles of ARG VOR.
FAF, ARG VORTAC. Final approach crs, 059°. Distance FAF to MAP, 1.8 miles.
Minimum altitude over ARG VORTAC, 1000'.
MSA: 000°-270°—1800'; 270°-360°—2300'.
When control zone not effective, the following limitations apply except for operators with approved weather reporting service: (1) Use Jonesboro, Ark., FSS altimeter setting. (2) Circling MDA increased 185'. (3) Alternate minimums not authorized.
* Night landing minimums authorized runways 17/35 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA		VIS
C*#	660	1	385	740	1	465	740	1¼	465		NA
A	Standard. #		T 2-eng. or less—Standard.				T over 2-eng.—Standard.				

City, Walnut Ridge; State, Ark.; Airport name, Walnut Ridge Municipal; Elev., 275'; Facility, ARG; Procedure No. VOR-1, Amdt. 5; Eff. date, 21 Aug. 69; Sup. Amdt. No. VOR Runway 4, Amdt. 4; Dated, 20 June 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.5-mile DME Fix MAF VORTAC.
R 301°, MAF VORTAC CCW	R 175°, MAF VORTAC	17-mile ARC MAF, R 182° lead radial.	4600	Climb to 4600' on R 335°, within 15 miles of VORTAC.
R 047°, MAF VORTAC CW	R 175°, MAF VORTAC	17-mile ARC MAF, R 168° lead radial.	4600	Supplementary charting information: Runway 34L, TDZ elevation, 2848'.
MAF VORTAC	Odle DME Fix	Direct	4600	
17-mile DME Fix, R 175°	Odle DME Fix (NOPT)	R 175°	4400	

Procedure turn E side of crs, 175° Otbnd, 355° Inbnd, 4600' within 10 miles of Odle DME Fix.
Final approach crs, 355°.
Minimum altitude over Odle 10-mile DME Fix, 4400'; over 5.5-mile DME Fix, 3180'.
MSA: 000°-180°—4300'; 180°-360°—5100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-34L	3180	1	332	3180	1	332	3180	1	332	3180	1	332
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3320	1	450	3320	1	450	3320	1¼	450	3420	2	550
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Midland; State, Tex.; Airport name, Midland-Odessa Regional Air Terminal; Elev., 2870'; Facility, MAF; Procedure No. VOR/DME Runway 34L, Amdt. 3; Eff. date 21 Aug. 69; Sup. Amdt. No. 2; Dated, 13 June 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.9-mile DME Fix.
R 015°, ARG VORTAC CW	R 051°, ARG VORTAC (NOPT)	14-mile Arc ARG, R 041° lead radial.	2000	Climb to 2000' on ARG VORTAC, R 230° within 20 miles.
R 140°, ARG VORTAC CCW	R 051°, ARG VORTAC (NOPT)	14-mile Arc ARG, R 061° lead radial.	2000	
14-mile DME Fix, R 051° ARG VORTAC	6-mile DME Fix (NOPT)	R 051°	1800	

Procedure turn N side of crs, 051° Outbnd, 231° Inbnd, 2000' within 10 miles of 6-mile DME (Kean Int).
Final approach crs, 231°.
Minimum altitude over 6-mile DME (Kean Int), 1800'.
MSA: 000°-270°—1800'; 270°-360°—2300'.
#When control zone not effective, the following limitations apply except for operators with approved weather reporting service: (1) Use Jonesboro, Ark., FSS altimeter setting. (2) Circling and straight-in MDA increased 185'. (3) Alternate minimums not authorized.
*Night landing minimums authorized Runways 17/35 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-22*#	640	1	365	640	1	365	640	1	365	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C*#	660	1	385	740	1	465	740	1¼	465	NA
A	Standard.#		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Walnut Ridge; State, Ark.; Airport name, Walnut Ridge Municipal; Elev., 275'; Facility, ARG; Procedure No. VOR/DME Runway 22, Amdt. 1; Eff. date, 21 Aug. 69; Sup. Amdt. No. Orig.; Dated, 20 June 68

10. By amending § 97.25 of Subpart C to establishd localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing FAR NDB.
FAR VORTAC	FAR NDB	Direct	2500	Climb to 2300' on S crs of ILS within 10 miles; return to NDB.
FA LOM	FAR NDB	Direct	2500	
R 178°, FAR VORTAC CW	R 340°, FAR VORTAC	22-mile Arc	3300	Supplementary charting information.
R 340°, FAR VORTAC CW	FAR LOC	22-mile Arc, R 349° lead radial.	2500	REIL Runway 17.
R 116°, FAR VORTAC CCW	R 040°, FAR VORTAC	25-mile Arc	3000	FA LOM Runway 35 named Buffalo.
R 040°, FAR VORTAC CCW	R 358°, FAR VORTAC	25-mile Arc	2500	Runway 17, TDZ elevation, 898'.
25-mile DME Fix, R 358° FAR VORTAC	FAR LOC	216° crs, 2 miles	2500	
D.R. position FAR LOC	FAR NDB (NOPT)	LOC crs	2200	
22-mile Arc	FAR NDB (NOPT)	LOC crs	2200	
Pearl Int	FAR NDB	Direct	2800	
Glyndon Int	FAR NDB	Direct	2500	
Chaffee Int	FAR NDB	Direct	2500	

Procedure turn W side of crs, 351° Outbnd, 171° Inbnd, 2500' within 10 miles of FAR NDB.
FAF, FAR NDB. Final approach crs, 171°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over FAR NDB, 2200'.
MSA: 045°–135°—2700'; 135°–225°—2400'; 225°–315°—4200'; 315°–045°—4100'.
NOTE: Inoperative component table does not apply to REIL Runway 17.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17	1220	¾	322	1220	¾	322	1220	¾	322	1220	1	322
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1380	1	480	1380	1	480	1380	1¼	480	1460	2	560
A	Standard.		T 2-eng. or less—RVR 24', Runway 35; Standard all other runways.				T over 2-eng.—RVR 24', Runway 35; Standard all other runways.					

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900'; Facility, I-FAR; Procedure No. LOC (BC) Runway 17, Amdt. 3; Eff. date, 21 Aug. 69; Sup. Amdt. No. 2; Dated, 16 Sept. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.9 miles after passing LA LOM.
LAF VORTAC	LA LOM	Direct	2400	Climbing right turn to 2400' direct to LA LOM.
Rossville Int	LA LOM	Direct	2400	
Boiler Int	LA LOM	Direct	2400	Supplementary charting information:
West Point Int	LA LOM	Direct	2400	1320' tower 2.8 miles ESE of airport.
Village Int	LA LOM (NOPT)	DR 150° and LOC crs 4.2 miles.	2100	877' tower 1 mile NE of airport. 933' tower 2 miles N of airport. 754' tower 1.3 miles S of airport. Runway 10, TDZ elevation, 600'.

Procedure turn S side of crs, 278° Outbnd, 098° Inbnd, 2400' within 10 miles of LA LOM.
FAF, LA LOM. Final approach crs, 098°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over LA LOM, 2100'.
MSA: 045°–135°—2300'; 135°–225°—2200'; 225°–315°—2300'; 315°–045°—2100'.
%IFR departure procedures: Runway 10, eastbound, climb to 1800' on heading 140°; Runway 5 departures eastbound, climb to 1800' on runway heading before proceeding on crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-10	980	1	380	980	1	380	980	1	380	980	1	380
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1180	1	575	1180	1	575	1180	1¼	575	1240	2	635
A	Standard.		T 2-eng. or less—Runway 5, 300–1; Standard all other runways.%				T over 2-eng.—Runway 5, 300–1; Standard all other runways.%					

City, Lafayette; State, Ind.; Airport name, Purdue University; Elev., 605'; Facility, I-LAF; Procedure No. LOC Runway 10, Amdt. Orig.; Eff. date, 21 Aug. 69

11. By amending § 97.25 of Subpart C to amend localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.7 miles after passing Trout Int.
Schooner Int	Trout Int (NOPT)	Direct	1500	Climb to 3000' on E crs of LAX ILS to Downey FM.
Lima LOM (LA)	Trout Int	Direct	2000	
LAX VOR	Trout Int	Direct	2000	Supplementary charting information:
Westlake Int	Schooner Int	Direct	3000	Chart DME distance at MAP (1.5-mile DME).
				Runway L7, TDZ elevation, 125'. Runway 7R, TDZ elevation, 124'.

Procedure turn S side of crs, 248° Outbnd, 068° Inbnd, 2000' within 10 miles of Trout Int.
FAF, Trout Int. Final approach crs, 068°. Distance FAF to MAP, 4.7 miles.
Minimum altitude over Trout Int., 1500'.
NOTES: (1) ASR/PAR. (2) DME is located at Runway 25 glide slope site. (3) DME should not be used to determine aircraft position over runway threshold, or runway touchdown point.
%IFR departure procedures: Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7L	460	RVR 40	335	460	RVR 40	335	460	RVR 40	335	460	RVR 50	335
S-7R	640	RVR 50	516	640	RVR 50	516	640	RVR 50	516	680	RVR 60	556
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1¼	514	680	2	554
A	Standard.		T 2-eng. or less—Runway 8/26, Standard. %#				T over 2-eng.—Runway 8/26, Standard. %##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, I-LAX; Procedure No. LOC (BC) Runway 7L, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. 1; Dated, 6 Feb. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.7 miles after passing Trout Int.
Schooner Int	Trout Int (NOPT)	Direct	1500	Climb to 3000' on E crs of LAX ILS to Downey FM.
LAX VOR	Trout Int	Direct	2000	
Lima LOM (LA)	Trout Int	Direct	2000	Supplementary charting information: Runway 7R, TDZ elevation, 124'. Runway 7L, TDZ elevation, 125'.
Westlake Int	Schooner Int	Direct	3000	

Procedure turn S side of crs, 248° Outbnd, 068° Inbnd, 2000' within 10 miles of Trout Int.
FAF, Trout Int. Final approach crs, 068°. Distance FAF to MAP, 4.7 miles.
Minimum altitude over Trout Int, 1500'.
NOTES: (1) ASR/PAR. (2) DME is located at Runway 25 glide slope site. (3) DME should not be used to determine aircraft position over runways threshold, or runway touchdown point.
%IFR departure procedures: Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7R	500	RVR 40	376	500	RVR 40	376	500	RVR 40	376	500	RVR 50	376
S-7L	640	RVR 50	515	640	RVR 50	515	640	RVR 50	515	680	RVR 60	555
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1¼	514	680	2	554
A	Standard.		T 2-eng. or less—Runway 8/26, Standard. %#				T over 2-eng.—Runway 8/26, Standard. %##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126' Facility, I-LAX; Procedure No. LOC (BC) Runway 7R, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. 1; Dated, 6 Feb. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing Octane Int.
MAF VORTAC	Octane Int	Direct	4600	Climb to 4600' on MAF ILS W crs within 20 miles, or when directed by ATC, turn left, climb to 4600' on MAF VOR R 190° within 20 miles.
MA LOM	Octane Int	Direct	4600	
By Pass Int	Derrick Int	Direct	4600	
Johnson Int	Derrick Int	Direct	4600	
Derrick Int	Octane Int (NOPT)	Direct	4600	
R 047° MAF VORTAC CW	MAF LOC (BC) (NOPT))	10-mile Arc MAF R 114° lead radial.	4600	Supplementary charting information: Runway 28, TDZ elevation, 2853'.

Procedure turn N side of crs, 103° Outbnd, 283° Inbnd, 4600' within 10 miles of Octane Int.
FAF, Octane Int. Final approach crs, 283°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over Octane Int, 4000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-28	3160	¾	307	3160	¾	307	3160	¾	307	3160	1	307
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3320	1	450	3320	1	450	3320	1¼	450	3420	2	550
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Midland; State, Tex.; Airport name, Midland-Odessa Regional Air Terminal; Elev., 2870'; Facility, I-MAF; Procedure No. LOC (BC) Runway 28, Amdt. 5; Eff. date, 21 Aug. 69; Sup. Amdt. No. 4; Dated, 29 Aug. 68

12. By amending § 97.27 of Subpart C to establish nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP:
Gorham Int	Berlin NDB	Direct	5300	Climb on 192° bearing from BML NDB for 1 minute, then right-climbing turn to 4400', direct to BML NDB. Climb to *5000' in the holding pattern.
Whitefield NDB	Berlin NDB	Direct	6500	Supplementary charting information: Hold N of BML NDB, 192° Inbnd, 1 minute, left turns.

Procedure turn E side of crs, 012° Outbnd, 192° Inbnd, 4400' within 10 miles of BML NDB.
Final approach crs, 192°.
MSA: 000°-090°—5200'; 090°-180°—5700'; 180°-270°—7400'; 270°-360°—5200'.
NOTES: (1) Use Montpelier, Vt., altimeter setting. (2) Approach from a holding pattern not authorized, procedure turn required, (3) IFR departure: Cross BML NDB at 2200' on 192° bearing for 1 minute, then right-climbing turn to 4400' direct to BML NDB. Climb in holding pattern to MSA on airway MEA.
*Minimum communications altitude, Boston ARTCC or Augusta FSS, 5000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	3220	3	2062	3220	3	2062	3220	3	2062	NA
A	Not authorized.			T 2-eng. or less—1000-1½ miles.			T over 2-eng.—1000-1½ miles.			

City, Berlin; State, N.H.; Airport name, Berlin Municipal; Elev., 1158'; Facility, BML; Procedure No. NDB (ADF) Runway 18, Amdt. 8; Eff. date, 21 Aug. 69; Sup. Amdt. No. NDB (ADF)-1, Amdt. 5; Dated, 28 Jan. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6 miles after passing EV LOM.
Mannie Int	EV LOM	Direct	2200	Climbing left turn to 2200′ on 180° to EVV VORTAC, R 080° and proceed to EVV VORTAC, or when directed by ATC, right-climbing turn to 2200′ on 325° and proceed to Princeton Int.
EVV VORTAC	EV LOM	Direct	2200	
Princeton Int	EV LOM	Direct	2200	
Cairo Int	EV LOM	Direct	2400	
Holland Int	EV LOM	Direct	2200	
Booneville Int	EV LOM	Direct	2500	
Augusta Int	EV LOM (NOPT)	Direct	2200	

Supplementary charting information:
619′ water tank, 1.3 miles W of airport.
489′ trees, 1000′ from Runway 21 threshold and 815′ NW of runway centerline.
1471′ tower, 7.5 miles E.
Runway 21, TDZ elevation, 418′.

Procedure turn W side of crs, 035° Outbnd, 215° Inbnd, 2200′ within 10 miles of EV LOM.
FAF, EV LOM. Final approach crs, 215°. Distance FAF to MAP, 6 miles.
Minimum altitude over EV LOM, 2200′.
MSA: 090°-270°—2500′; 270°-090°—2000′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-21	880	¾	462	880	¾	462	880	¾	462	880	1	462
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	880	1	462	920	1	502	920	1½	502	980	2	562
A	Standard.		T 2-eng. or less—Runways 9, 27, 300-1; Standard all others.				T over 2-eng.—Runways 9, 27, 300-1; Standard all others.					

City, Evansville; State, Ind.; Airport name, Dress Memorial; Elev., 418′; Facility, EV; Procedure No. NDB (ADF) Runway 21, Amdt. 5; Eff. date, 21 Aug. 69; Sup. Amdt. No. 4; Dated, 24 Feb. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing FAR NDB.
FAR VORTAC	FAR NDB	Direct	2500	Climb to 2300′ on 171° bearing from NDB within 10 miles; return to NDB.
FA LOM	FAR NDB	Direct	2500	
Pearl Int	FAR NDB	Direct	2800	
Glyndon Int	FAR NDB	Direct	2500	
Chaffee Int	FAR NDB	Direct	2500	

Supplementary charting information:
REIL Runway 17.
FA LOM Runway 35 named Buffalo.
Runway 17, TDZ elevation, 898′.

Procedure turn W side of crs, 351° Outbnd, 171° Inbnd, 2500′ within 10 miles of FAR NDB.
FAF, FAR NDB. Final approach crs, 171°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over FAR NDB, 2200′.
MSA: 045°-135°—2700′; 135°-225°—2400′; 225-315°—4200′; 315°-045°—4100′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17	1280	1	382	1280	1	382	1280	1	382	1280	1	382
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1380	1	480	1380	1	480	1380	1½	480	1460	2	560
A	Standard.		T 2-eng. or less—RVR 24′, Runway 35; Standard all other runways.				T over 2-eng.—RVR 24′, Runway 35; Standard all other runways.					

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900′; Facility, FAR; Procedure No. NDB (ADF) Runway 17, Amdt. 4; Eff. date, 21 Aug. 69; Sup. Amdt. No. [illegible] Dated, 16 Sept. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.1 miles after passing FA LOM.
FAR VORTAC	FA LOM	Direct	2300	Climb to 2500' on 351° bearing from LOM within 10 miles; return to LOM. When directed by ATC, make left-climbing turn to 2800' on R 285°; return to VORTAC.
FAR NDB	FA LOM	Direct	2300	
Pearl Int	Rice Int	Direct	2800	
Rice Int	FA LOM (NOPT)	Direct	2300	
FAR VORTAC	Leslie Int	Direct	2300	
Leslie Int	FA LOM (NOPT)	Direct	2300	Supplementary charting information: FA LOM named Buffalo. Tower 1137', 43°53'31"/96°48'09". Runway 35, TDZ elevation, 897'.

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2300' within 10 miles of FA LOM.
FAF, FA LOM. Final approach crs, 351°. Distance FAF to MAP, 4.1 miles.
Minimum altitude over FA LOM, 2100'.
MSA: 045°-135°—3000'; 135°-225°—2300'; 225°-315°—3200'; 315°-045°—2400'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	1380	RVR 40	483	1380	RVR 40	483	1380	RVR 40	483	1380	RVR 50	483
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1380	1	480	1380	1	480	1380	1¼	480	1460	2	560
A	Standard.		T 2-eng. or less—RVR 24', Runway 35; Standard all other runways.				T over 2-eng.—RVR 24', Runway 35; Standard all other runways.					

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900'; Facility, FA; Procedure No. NDB (ADF) Runway 35, Amdt. 19; Eff. date, 21 Aug. 69; Sup. Amdt. No., 1 Dated, 12 Aug. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: FSK NDB.
BUM VORTAC	FSK NDB	Direct	2800	Climbing right turn to 2500' within 10 miles; return to FSK NDB.
Walnut Int	FSK NDB	Direct	2800	
Nevada Int	FSK NDB	Direct	2800	Supplementary charting information: Final approach crs intercepts runway centerline extended 3100' from threshold.

Procedure turn W side of crs, 340° Outbnd, 160° Inbnd, 2500' within 10 miles of FSK NDB.
Final approach crs, 160°.
MSA: 000°-360°—2500'.
NOTES: (1) Use Chanute, Kans., altimeter setting except operators with approved weather reporting service. (2) Operators with approved weather reporting service may reduce all MDA's by 140'.
*Standard alternate minimums authorized for operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-17	1600	1	684	1600	1	684	1600	1¼	684	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1600	1	684	1600	1	684	1600	1½	684	NA
A	Not authorized.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Fort Scott; State, Kans.; Airport name, Municipal; Elev., 916'; Facility, FSK; Procedure No. NDB (ADF) Runway 17, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.8 miles after passing FFY NDB.
Bridgeport Int	FFY NDB	Direct	2500	Climbing right turn to 2500', return to FFY NDB and hold.
Grata Int	FFY NDB	Direct	2500	
Georgetown Int	FFY NDB (NOPT)	Direct	1900	Supplementary charting information: Hold NE, 1 minute, right turns, 242° Inbnd. Chart 1103' radio tower 38°11'08" N., 84°52'48" W. Runway 24, TDZ elevation, 780'.

Procedure turn N side of crs, 062° Outbnd, 242° Inbnd, 2500' within 10 miles of FFY NDB.
FAF, FFY NDB. Final approach crs, 242°. Distance FAF to MAP, 3.8 miles.
Minimum altitude over FFY NDB, 1900'.
MSA: 000°–090°—2400'; 090°–180°—3000'; 180°–270°—2500'; 270°–360°—2500'.
NOTES: (1) Radar vectoring. (2) Use Lexington altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT		VIS	
S-24	1480	1	694	1480	1	694	1480	1¼	694		NA	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA			
C	1480	1	681	1480	1	681	1480	1¼	681		NA	
A	Not authorized.			T 2-eng. or less—300-1, Runway 6; Standard Runway 24.			T over 2-eng.—300-1 Runway 6; Standard Runway 24.					

City, Frankfort; State, Ky.; Airport name, Capital City; Elev., 799'; Facility, FFY; Procedure No. NDB (ADF) Runway 24, Amdt. Orig.; Eff. date, 21 Aug. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: OSX NDB.
GRW VORTAC	OSX NDB	Direct	2000	Climbing left turn to 2000', direct to OSX NDB and hold.
Zama Int	OSX NDB	Direct	2000	Supplementary charting information: Hold NW, right turns, 1 minute, 125° Inbnd.

Procedure turn S side of crs, 305° Outbnd, 125° Inbnd, 2000' within 10 miles of OSX NDB.
Final approach crs, 125°.
MSA: 000°–270°—1900'; 270°–360°—1800'.
NOTES: (1) Night minimums not authorized. (2) Use Greenwood FSS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-14	1100-	1	621	1100	1	621	1100	1	621	1100	1	621
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1100	1	621	1100	1	621	1100	1½	621	1100	2	621
A	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Kosciusko; State, Miss.; Airport name, Kosciusko-Attala County; Elev., 479'; Facility, OSX; Procedure No. NDB (ADF) Runway 14, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: OSX NDB.
GRW VORTAC	OSX NDB	Direct	2000	Climbing right turn to 2000' direct to OSX NDB and hold.
Zama Int	OSX NDB	Direct	2000	Supplementary charting information: Hold SE, 1 minute, left turns, 317° Inbnd.

Procedure turn W side of crs, 137° Outbnd, 317° Inbnd, 2000' within 10 miles of OSX NDB.
Final approach crs, 317°.
MSA: 000°-270°—1900'; 270°-360°—1800'.
NOTES: (1) Night minimums not authorized. (2) Use Greenwood FSS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-32	1320	1	841	1320	1¼	841	1320	1½	841	1320	1¾	841
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1320	1	841	1320	1¼	841	1320	1½	841	1320	2	841
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Kosciusko; State, Miss.; Airport name, Kosciusko-Attala County; Elev., 479'; Facility, OSX; Procedure No. NDB (ADF) Runway 32, Amdt. Orig.; Eff. date, 21 Aug. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.9 miles after passing LA LOM.
LAF VORTAC	LA LOM	Direct	2400	Climbing right turn to 2400' direct to LA LOM.
Rossville Int	LA LOM	Direct	2400	Supplementary charting information: 1320' tower 2.8 miles ESE of airport. 877' tower 1 mile NE of airport. 933' tower 2 miles N of airport. 754' tower 1.3 miles S of airport. Runway 10, TDZ elevation, 600'.
Boiler Int	LA LOM	Direct	2400	
West Point Int	LA LOM	Direct	2400	
Village Int	LA LOM (NOPT)	Direct	2100	

Procedure turn S side of crs, 278° Outbnd, 098° Inbnd, 2400' within 10 miles of LA LOM.
FAF, LA LOM. Final approach crs, 098°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over LA LOM, 2100'.
MSA: 045°-135°—2300'; 135°-225°—2200'; 225°-315°—2300'; 315°-045°—2100'.
%IFR departure procedures: Runway 10, eastbound, climb to 1800' on heading 140°; Runway 5 departures eastbound, climb to 1800' on runway heading before proceeding on crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-10	1080	1	480	1080	1	480	1080	1	480	1080	1	480
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1180	1	575	1180	1	575	1180	1½	575	1240	2	635
A	Standard.		T 2-eng. or less—Runway 5, 300-1; Standard all other runways. %				T over 2-eng.—Runway 5, 300-1; Standard all other runways. %					

City, Lafayette; State, Ind.; Airport name, Purdue University; Elev., 605'; Facility, LA; Procedure No. NDB (ADF) Runway 10, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: MFI NDB.
Chili Int	MFI NDB	Direct	3000	Climb to 2800' on 033° bearing from NDB within 10 miles; return to NDB. Supplementary charting information: Final approach crs intercepts runway centerline 3700' from threshold. 1378' stack ½ mile N of airport. Runway 5, TDZ elevation, 1261'.
Junction City Int	MFI NDB	Direct	3000	

Procedure turn E side of crs, 213° Outbnd, 033° Inbnd, 2800' within 10 miles of MFI NDB.
Final approach crs, 033°.
MSA: 000°-090°—3600'; 090°-270°—2600'; 270°-360°—2900'.
NOTE: Use Wausau altimeter setting.
% IFR departure procedures: Aircraft departing Runways 5 and 24, climb to 1900' on runway heading before turning northbound.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-5	1780	1	519	1780	1	519	1780	1	519	1780	1¼	519
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1860	1	599	1860	1	599	1940	1½	679	1940	2	679
A	Not authorized.		T 2-eng. or less—Standard .%				T over 2-eng.—Standard .%					

City, Marshfield; State, Wis.; Airport name, Marshfield Municipal; Elev., 1261'; Facility, MFI; Procedure No. NDB (ADF) Runway 5, Amdt. 2; Eff. date, 21 Aug. 69; Sup Amdt. No. 1; Dated, 20 May 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: MFI NDB.
Chili Int	MFI NDB	Direct	3000	Climb to 2800' on 142° bearing from NDB within 10 miles; return to NDB. Supplementary charting information: Final approach crs intercepts runway centerline 3000' from threshold. 1378' stack ½ mile N of airport. Runway 16, TDZ elevation, 1261'.
Junction City Int	MFI NDB	Direct	3000	

Procedure turn W side of crs, 322° Outbnd, 142° Inbnd, 2800' within 10 miles of MFI NDB.
Final approach crs, 142°.
MSA: 000°-090°—3600'; 090°-270°—2600'; 270°-360°—2900'.
NOTES: (1) Use Wausau altimeter setting. (2) Inoperative table does not apply to REIL Runway 16.
% IFR departure procedures: Aircraft departing Runways 4 and 34, climb to 1900' on runway heading before turning northbound.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-16	1860	1	599	1860	1	599	1860	1	599	1860	1¼	599
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1860	1	599	1860	1	599	1940	1½	679	1940	2	679
A	Not authorized.		T 2-eng. or less—Standard. %				T over 2-eng.—Standard. %					

City, Marshfield; State, Wis.; Airport name, Marshfield Municipal; Elev., 1261';Facility, MFI; Procedure No. NDB (ADF) Runway 16, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ULM NDB.
Courtland Int	ULM NDB	Direct	2600	Climb to 2600' on 120° bearing from NDB within 10 miles; return to NDB.

Supplementary charting information:
Final approach crs intercepts runway centerline 2200' from threshold.
1399' tower, 44°18'25"/94°28'00".
Runway 13, TDZ elevation, 1004'.

Procedure turn S side of crs, 300° Outbnd, 120° Inbnd, 2600' within 10 miles of ULM NDB.
Final approach crs, 120°.
MSA: 000°-090°—2400'; 090°-180°—3300'; 180°-270°—2700'; 270°-360°—2500'.
NOTE: Use Redwood Falls altimeter setting.
CAUTION: TURF Runways 4/22 unlighted.
%IFR departure procedure: Takeoffs Runway 13, make immediate right-climbing turn to 1900' on 220° bearing from ULM NDB before turning E. Restriction due to 1399' tower 1.2 miles SE.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-13	1700	1	696	1700	1	696	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1820	1	815	1820	1¼	815	NA	NA
A	Not authorized.		T 2-eng. or less—400-1, Runway 13; Standard all other runways.%				T over 2-eng.—400-1, Runway 13; Standard all other runways.%	

City, New Ulm; State, Minn.; Airport name, New Ulm Municipal; Elev., 1005'; Facility, ULM; Procedure No. NDB (ADF) Runway 13, Amdt. Orig.; Eff. date, 21 Aug. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: OUN NDB.
OKC VORTAC	OUN NDB	Direct	2600	Climbing left turn to 2600' direct OUN NDB and hold.
Washington Int	OUN NDB	Direct	2600	
Shawnee Int	OUN NDB	Direct	2600	

Supplementary charting information:
Hold S of OUN NDB on bearing 200°-020° Inbnd, left turns, 1 minute.
Runway 3, TDZ elevation, 1176'.

Procedure turn W side of crs, 200° Outbnd, 020° Inbnd, 2600' within 10 miles of OUN NDB.
Final approach crs, 020°.
Minimum altitude over OUN NDB, 1700'.
MSA: 045°-225°—2900'; 225°-315°—2900'; 315°-045°—3800'.
NOTES: (1) Radar vectoring. (2) Use Will Rogers altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-3	1700	1	524	1700	1	524	1700	1	524	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1700	1	519	1700	1	519	1700	1½	519	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Norman; State, Okla.; Airport name, Max Westheimer; Elev., 1181'; Facility, OUN; Procedure No. NDB (ADF) Runway 3, Amdt. Orig.; Eff. date, 21 Aug. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	VIA	Minimum altitudes (feet)	MAP: PRO NDB.
Grimes Int	PRO NDB	Direct	2800	Climb to 2600' within 10 miles; return to PRO NDB.
DSM VORTAC	PRO NDB	Direct	2800	
Linden Int	PRO NDB	Direct	2800	Supplementary charting information:
FOD VORTAC	PRO NDB	Direct	2800	Final approach crs intercepts runway centerline extended 1640' from threshold.

Procedure turn W side of crs, 140° Outbnd, 320° Inbnd, 2600' within 10 miles of PRO NDB.
Final approach crs, 320°.
MSA: 000°-090°—2700'; 090-180°—2600'; 180-°270°—2700'; 270°-360°—2500'.
NOTES: (1) Radar vectoring. (2) Use Des Moines, Iowa, altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-31	1580	1	566	1580	1	566	1580	1	566	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1580	1	566	1580	1	566	1580	1¼	566	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Perry; State, Iowa; Airport name, Municipal; Elev., 1014'; Facility, PRO; Procedure No. NDB (ADF) Runway 31, Amdt. Orig.; Eff. date, 21 Aug. 1969

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: SPW NDB.
Martie Int	SPW NDB	Direct	3000	Climb to 3000' on 003° bearing from NDB within 10 miles; return to NDB.
Everly Int	SPW NDB	Direct	3000	

Procedure turn E side of crs, 183° Outbnd, 003° Inbnd, 3000' within 10 miles of SPW NDB.
Final approach crs, 003°.
MSA: 180°-270°—2800'; 270°-180°—3000'.
NOTES: (1) Use Sioux Falls altimeter setting except for operators with approved weather reporting service. (2) Operators with approved weather reporting service may reduce all MDA's by 320'.
CAUTION: Runways 17/35 and 4/22 unlighted.
*Standard alternate minimums for operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	2100	1	765	2120	1¼	785	2360	1¼	1025	NA
A	Not authorized.*		T 2-eng. or less—400-1, Runways 4 and 11; Standard all others.				T over 2-eng.—400-1, Runways 4 and 11; Standard all others.			

City, Spencer; State, Iowa; Airport name, Spencer Municipal; Elev., 1335'; Facility, SPW; Procedure No. NDB (ADF)-1, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 4 Dec. 65

13. By amending § 97.27 of Subpart C to amend nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.8 miles from BT LOM.
Woodville Int	LOM	Direct	1600	Climb to 2000' right turn direct BTR VOR,
BTR VOR	LOM	Direct	1600	Supplementary charting information:
Morgauza Int	LOM	Direct	1600	TDZ elevation, 67'

Procedure turn S side of crs, 307° Outbnd, 127° Inbnd, 1600' within 10 miles of BT LOM.
FAF, BT LOM. Final approach crs, 127°. Distance FAF to MAP, 3.8 miles.
Minimum altitude over BT LOM, 1300'.
MSA: 130°–220°—2800'; 220°–130°—1600'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	560	1	493	560	1	493	560	1	493	560	1	493
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	560	1	490	560	1	490	560	1½	490	620	2	550
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Baton Rouge; State, La.; Airport name, Ryan; Elev., 79'; Facility BT; Procedure No. NDB (ADF) Runway 13, Amdt. 15; Eff. date, 21 Aug. 1969; Sup. Amdt. No. 14; Dated, 10 July 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.3 miles after passing Romeo LOM (OS).
Los Angeles VOR	Romeo LOM (OS)	Direct	3500	Climb to 2000' on crs, 248° within 15 miles of
Royal Int	Downey NDB	Direct	3000	Romeo LOM (OS).
SLI VOR	Downey NDB	Direct	3000	Supplementary charting information:
Downey NDB	Romeo LOM (OS) (NOPT)	Direct	2200	Runway 24L, TDZ elevation, 129'.

Procedure turn S side of crs, 079° Outbnd, 259° Inbd, 2500' within 10 miles of Romeo LOM (OS).
FAF, Romeo LOM (OS). Final approach crs, 248°. Distance FAF to MAP, 6.3 miles.
Minimum altitude over Romeo LOM (OS), 2200'.
MSA: 045–135°—4800'; 135–°225°—2000'; 225°–315°—4800'; 315°–045°—9100'.
NOTES: (1) ASR/PAR. (2) Inoperative component table not applicable to HIRL or SALS Runway 24L.
%IFR departure procedures: Northbound (280° CW through 060°): Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24.'
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-24L	720	RVR 50	600	720	RVR 50	600	720	RVR 50	600	720	RVR 60	600
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	720	1	594	720	1	594	720	1¼	594	720	2	594
A	Standard.		T 2-eng. or less.—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, OS; Procedure No. NDB(ADF) Runway 24L, Amdt. 2; Eff. date, 21 Aug. 69; Sup. Amdt. No. 1; Dated, 3 Apr. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: Runways 25L and 25R: 5.4 miles after passing Lima LOM.
LAX VOR	Lima LOM (LA)	Direct	3000	Climb to 2000' on crs 248° within 15 miles of Lima LOM.
Downey FM/N DB	Lima LOM (LA) (NOPT)	Direct	2000	Supplementary charting information: Runways 25L/R, TDZ elevation, 100'. Final approach crs 350' right of Runway 25L centerline and 350' left of Runway 25R centerline at 3000'.
SLI VOR	Downey FM/NDB	Direct	3000	

Procedure turn S side of crs, 073° Outbnd, 253° Inbnd, 2500' within 10 miles of Lima LOM (LA).
FAF, Lima LOM (LA). Final approach crs, 248°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over Lima LOM (LA), 2000'.
MSA: 045°-135°—4800'; 135°-225°—2000'; 225°-315°—4800'; 315°-045°—9100'.
NOTE: ASR/PAR.
%IFR departure procedures: Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25 L/R	660	RVR 40	560	660	RVR 40	560	660	RVR 40	560	660	RVR 50	560
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	660	1	534	660	1	534	660	1¼	534	680	2	554
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, LA; Procedure No. NDB (ADF) Runway 25L/R, Amdt. 30; Eff. date, 21 Aug. 69; Sup. Amdt. No. 29; Dated, 6 Feb. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.1 miles after passing MA LOM.
MAF VORTAC	MA LOM	Direct	4600	Climb to 4600' on bearing of 103° within 20 miles.
Goldsmith Int	MA LOM (NOPT)	Direct	4600	Supplementary charting information:
Penwell Int	MA LOM	Direct	5000	TDZ elevation, 2867'.
Mustang Int	MA LOM	Direct	5000	
Pipeline Int	MA LOM	Direct	5000	

Procedure turn S side of crs, 283° Outbnd, 103° Inbnd, 4600' within 10 miles of MA LOM.
FAF, MA LOM. Final approach crs, 103°. Distance FAF to MAP, 6.1 miles.
Minimum altitude over MA LOM, 4600'.
MSA: 090°-180°—4400'; 180°-270°—5500'; 270°-090°—5100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-10	3240	¾	373	3240	¾	373	3240	¾	373	3240	1	373
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3320	1	450	3320	1	450	3320	1½	450	3420	2	550
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Midland; State, Tex.; Airport name, Midland-Odessa Regional Air Terminal; Elev., 2870'; Facility, MA; Procedure No. NDB (ADF) Runway 10, Amdt. 3; Eff. date, 21 Aug. 69; Sup. Amdt. No. 2; Dated, 13 June 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.4 miles after passing OR LOM.
ORL VORTAC	OR LOM	Direct	2000	Climbing left turn to 2000' on ORLR 049° within 15 miles; or when, directed by ATC, climb to 2500' on 067° bearing of the OR LOM within 20 miles. Supplementary charting information: TDZ elevation, 109'.

Procedure turn S side of crs, 247° Outbnd, 067° Inbnd, 2000' within 10 miles of OR LOM.
FAF, OR LOM. Final approach crs, 067°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over OR LOM, 2000'.
MSA: 045°-135°—2600'; 135°-225°—1800'; 225°-315°—2000'; 315°-045°—2100'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7	700	¾	591	700	¾	591	700	¾	591	700	1	591
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	700	1	587	700	1	587	700	1¼	587	700	2	587
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Orlando; State, Fla.; Airport name, Herndon; Elev., 113'; Facility, OR; Procedure No. NDB (ADF) Runway 7, Amdt. 4; Eff. date, 21 Aug. 69; Sup. Amdt. No. 3; Dated 13 Mar. 69

14. By amending § 97.29 of Subpart C to establish instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 618'. LOC, 6 miles after passing EV LOM.
Mamie Int	EV LOM	Direct	2200	Climbing left turn to 2200' on 180° to EVV VORTAC R 080° and proceed to EVV VORTAC, or when directed by ATC, right-climbing turn to 2200' on 325° and proceed to Princeton Int.
EVV VORTAC	EV LOM	Direct	2200	
Princeton Int	EV LOM	Direct	2300	
Cairo Int	EV LOM	Direct	2400	
Holland Int	Buckskin Int	SAM, R 112°	2200	
Booneville Int	EV LOM	Direct	2300	Supplementary charting information:
Augusta Int	Buckskin Int	Direct	2200	619' water tank, 1.3 miles W of airport.
R 338°, EVV VORTAC CW	EVV LOC	25-mile Arc EVV, R 041 lead radial.	2200	489' trees 1000' from Runway 21 threshold and 815' NW of runway centerline.
R 081°, EVV VORTAC CCW	EVV LOC	25-mile Arc EVV, R 050° lead radial.	2200	1471' tower, 7.5 miles E. Back crs unusable.
25-mile DME Arc	EV LOM (NOPT)	Direct	2300	Runway 21, TDZ elevation, 418'.
Buckskin Int	EV LOM (NOPT)	Direct	2200	

Procedure turn W side of crs, 035° Outbnd, 215° Inbnd, 2200' within 10 miles of EV LOM.
FAF, EV LOM. Final approach crs, 215°. Distance FAF to MAP, 6 miles.
Minimum glide slope intercept altitude, 2200'. Glide slope altitude at OM, 2200'; over MM, 618'.
Distance to runway threshold at OM, 6 miles; at MM, 0.5 mile.
MSA: 090°-270°—2500'; 270°-090°—2000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-21	618	½	200	618	½	200	618	½	200	618	½	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-21	840	½	422	840	½	422	840	½	422	840	¾	422
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	880	1	462	920	1	502	920	1¼	502	980	2	562
A	Standard.		T 2-eng. or less Runways 9, 27, 300-1; Standard all others.				T over 2-eng.—Runways 9, 27, 300-1; Standard all others.					

City, Evansville; State, Ind.; Airport name, Dress Memorial; Elev., 418'; Facility, I-EVV; Procedure No. ILS Runway 21, Amdt. 13; Eff. date, 21 Aug. 69; Sup. Amdt. No. 12; Dated, 24 Feb. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1097'; LOC 4.1 miles after passing FA LOM.
FAR VORTAC	FA LOM	Direct	2300	Climb to 2500' on N crs of FAR ILS within 10 miles; return to FA LOM. When directed by ATC, make left-climbing turn to 2800' on FAR VORTAC, R 285; return to VORTAC.
FAR NDB	FA LOM	Direct	2300	
Pearl Int	Rice Int	Direct	2800	
Rice Int	FA LOM (NOPT)	Direct	2300	
FAR VORTAC	Leslie Int	Direct	2300	
Leslie Int	FA LOM (NOPT)	LOC crs	2300	Supplementary charting information: FA LOM Runway 35 named Buffalo. Runway 35, TDZ elevation, 897'.

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2300' within 10 miles of FA LOM.
FAF, FA LOM. Final approach crs, 351°. Distance FAF to MAP, 4.1 miles.
Minimum glide slope interception altitude, 2100'. Glide slope altitude at OM, 2092'; at MM, 1105'.
Distance to runway threshold at OM, 4.1 miles; at MM, 0.6 mile.
MSA: 045°-135°—3000'; 135°-225°—2300'; 225°-315°—3200'; 315°-045°—2400'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-35	1097	RVR 24	200	1097	RVR 24	200	1097	RVR 24	200	1097	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	*1260	RVR 24	363	1260	RVR 24	363	1260	RVR 24	363	1260	RVR 40	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1380	1	480	1380	1	480	1380	1¼	480	1460	2	560
A	Standard.		T 2-eng. or less—RVR 24'. Runway 35; Standard all other runways.				T over 2-eng.—RVR 24'. Runway 35; Standard all other runways.					

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900'; Facility, I-FAR; Procedure No. ILS Runway 35, Amdt. 20; Eff. date, 21 Aug. 69; Sup. Amdt. No. 19; Dated, 12 Aug. 67

15. By amending § 97.29 of Subpart C to amend instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 370'; LOC 6.3 miles after passing Romeo LOM/Int.
LAX VOR	Romeo LOM/Int	Direct	3500	Initiate immediate climb on localizer crs to 500'; turn right, continue climb to 4000' via 265° heading and LAX R 279° to Topanga Int.
SLI VOR	Commerce Int	Direct	3000	
Royal Int	Commerce Int	Direct	3500	
Commerce Int	Romeo LOM/Int (NOPT)	Direct	2200	Supplementary charting information: Runway 24L, TDZ elevation, 120'.

Procedure turn S side of crs, 068° Outbnd, 248° Inbnd, 2500' within 10 miles of Romeo LOM/Int.
FAF, Romeo LOM/Int. Final approach crs, 248°. Distance FAF to MAP, 6.3 miles.
Minimum altitude over Romeo LOM/Int, 2200'; over Arbor Int, 620'.
Minimum glide slope interception altitude, **2500'. Glide slope altitude at OM, 2196'; at MM, 317'.
Distance to runway threshold at OM, 6.3 miles; at MM, 0.5 mile.
MSA: 045°-135°—4800'; 135°-225°—2600'; 225°-315°—4800'; 315°-045°—9100'.
NOTES: (1) ASR/PAR. (2) Components inoperative table does not apply to HIRL's or SALS Runway 24L. (3) During simultaneous approaches (LAX Runway 24L and HHR Runway 25), aircraft must be radar vectored to FAF (Romeo LOM/Int.). (4) Back crs unusable. (5) DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point.
%IFR departure procedures: Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.
**2200' when authorized by ATC.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-24L	370	RVR 40	250	370	RVR 40	250	370	RVR 40	250	370	RVR 40	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-24L	620	RVR 50	500	620	RVR 50	500	620	RVR 50	500	620	RVR 50	500
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1½	514	680	2	554
	LOC/DME Minimums:											
S-24L	480	RVR 50	360	480	RVR 50	360	480	RVR 50	360	480	RVR 50	360
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, I-OSS; Procedure No. 1LS Runway 24L, Amdt. 3; Eff. date, 21 Aug. 69; Sup. Amdt. No. 2; Dated, 3 Apr. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 300'; LOC 5.4 miles after passing Lima LOM/Int.
Bassett Int	Downey FM/Int	Direct	3500	Initiate immediate climb on localizer crs to 500', turn left, continue climb to 3000' via 220° heading and LAX R 192° to Kingfish Int.
SLI VOR	Downey FM/Int	Direct	3500	
Downey FM/Int	Century Int	Direct	3500	
Century Int	Lima LOM/Int (NOPT)	Direct	1900	
LAX VOR	Century Int	Direct	3500	Supplementary charting information: Chart Downey NBD although not used in procedure. Runway 25L/R, TDZ elevation, 100'.

Procedure turn S side of crs, 068° Outbnd, 248° Inbnd, 3500' within 10 miles of Century Int.
FAF, Lima LOM/Int. Final approach crs, 248°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over Century Int, 3500'; over Lima LOM/Int, 1900'; over Whelan Int, 620'.
Minimum glide slope interception altitude, *3500'. Glide slope altitude at OM, 1886'; at MM, 324'.
Distance to runway threshold at OM, 5.4 miles; at MM, 0.5 mile.
MSA: 045°-135°—4800'; 135°-225°—2600'; 225°-315°—4800'; 315°-045°—9100'.
NOTES: (1) ASR/PAR. (2) DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point.
%IFR departure procedures: Northbound (280° CW through 060°) Published SID's must be used or be radar vectored.
*1900' when authorized by ATC.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-25L	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200
S-25R	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25L	620	RVR 24	520	620	RVR 24	520	620	RVR 24	520	620	RVR 50	520
S-25R	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1½	514	680	2	554
	LOC/DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25L	460	RVR 24	360	460	RVR 24	360	460	RVR 24	360	460	RVR 40	360
S-25R	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, I-LAX; Procedure No. ILS Runway 25L, Amdt. 34; Eff. date, 21 Aug. 69; Sup. Amdt. No. 33; Dated, 3 Apr. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 300'; LOC 5.4 miles after passing Lima LOM/Int.
Bassett Int	Downey FM/Int	Direct	3500	Initiate immediate climb on localizer crs to 500', turn left, continue climb to 3000' via 220° heading and LAX R 192° to Kingfish Int.
SLI VOR	Downey FM/Int	Direct	3500	
Century Int	Lima LOM/Int (NOPT)	Direct	1900	
Downey FM/Int	Century Int	Direct	3500	
LAX VOR	Century Int	Direct	3500	Supplementary charting information: Chart Downey NDB although not used in procedure. Runway 25R/L TDZ elevation, 100'.

Procedure turn S side of crs, 068° Outbnd, 248° Inbnd, 3500' within 10 miles of Century Int.
FAF, Lima LOM/Int. Final approach crs, 248°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over Century Int, 3500'; over Lima LOM/Int, 1900'; over Lake Int, 620'.
Minimum glide slope interception altitude, *3500'. Glide slope altitude at OM, 1880'; at MM, 324'.
Distance to runway threshold at OM, 5.4 miles; at MM, 0.5 mile.
MSA: 045°–135°—4800'; 135°–225°—2600'; 225°–315°—4800'; 315°–045°—9100'.
NOTES: (1) ASR/PAR. (2) DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point.
%IFR departure procedures: Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.
*1900' when authorized by ATC.
#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.
##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-25R	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200
S-25L	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25R	620	RVR 24	520	620	RVR 24	520	620	RVR 24	520	620	RVR 50	520
S-25L	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1¼	514	680	2	554
	LOC/DME minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25R	460	RVR 24	360	460	RVR 24	360	460	RVR 24	360	460	RVR 40	360
S-25L	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, I-LAX; Procedure No. ILS Runway 25R, Amdt. 11; Eff. date, 21 Aug. 69; Sup. Amdt. No. 10; Dated, 3 Apr. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP ILS DH, 370'; LOC 6.3 miles after passing Romeo LOM/Int.
Runway 24L				Initiate immediate climb on localizer crs to 500'; turn right, continue climb to 4000' via 265° heading and LAX R 276° to Topanga Int.
				Supplementary charting information: Runway 24L, TDZ elevation, 130'.
Runway 25L				MAP: ILS DH 300', LOC 5.4 miles after passing Lima LOM/Int.
				Initiate immediate climb on localizer crs to 500', turn left, continue climb to 3000' via 220° heading and LAX R 192° to Kingfish Int.
				Supplementary charting information: Runway 25L, TDZ elevation, 100'.

Runway 24L:
Procedure turn not authorized. Approach crs (profile) starts at Romeo LOM/Int.
FAF, Romeo LOM/Int. Final approach crs, 248°. Distance FAF to MAP, 6.3 miles.
Minimum altitude over Romeo LOM/Int., 2200'; over Arbor Int., 620'.
Minimum glide slope interception altitude, 2500'. Glide slope altitude at OM, 2196'; at MM, 317'.
Distance to runway threshold at OM, 6.3 miles; at MM, 0.5 mile.
Runway 25L:
Procedure turn not authorized. Approach crs (profile) starts at Century Int.
FAF, Lima LOM/Int. Final approach crs, 248°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over Century Int, 3500'; over Lima LOM/Int, 1900'; over Whelan Int, 620'.
Minimum glide slope interception altitude, 3500'. Glide slope altitude at OM, 1880'; at MM, 324'.
Distance to runway threshold at OM, 5.4 miles; at MM, 0.5 mile.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

NOTES: (1) ASR/PAR. (2) Radar required. (3) Use of this procedure is mandatory when conducting a parallel ILS approach and is authorized only when airborne 75MC or ADF and localizer receivers are operating simultaneously. (4) When any required airborne receivers in note (3) are malfunctioning or a parallel approach is not desired, immediate notification of Los Angeles approach control is mandatory. (5) When advised that parallel operations are in progress, the pilot will be prepared to accept or reject an approach to either Runway 25L or Runway 24L. (6) Components inoperative table does not apply to HIRL or SALS Runway 24L. (7) DME should not be used to determine aircraft position over MM, runway threshold, or runway touchdown point.

% IFR departure procedures Northbound (280° CW through 060°). Published SID's must be used or be radar vectored.

#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.

##Runways 6R, 7L/R, 24L, 25L/R, RVR 24.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
	Runway 24L:											
S-24L	370	RVR 40	250	370	RVR 40	250	370	RVR 40	250	370	RVR 40	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-24L	620	RVR 50	500	620	RVR 50	500	620	RVR 50	500	620	RVR 50	500
	LOC/DME Minimums:											
S-24L	480	RVR 50	360	480	RVR 50	360	480	RVR 50	360	480	RVR 50	360
	Runway 25L:											
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-25L	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25L	620	RVR 24	520	620	RVR 24	520	620	RVR 24	520	620	RVR 50	520
	LOC/DME Minimums:											
S-25L	460	RVR 24	360	460	RVR 24	360	460	RVR 24	360	460	RVR 40	360
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard. %##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 126'; Facility, Runway 24L, I-OSS; Runway 25L, I-LAX; Procedure No. Parallel ILS Runways 25L/24L, Amdt. 3; Eff. date, 21 Aug. 69; Sup. Amdt. No. 2; Dated, 3 Apr. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP ILS DH, 3067'. LOC, 6.1 miles after passing MA LOM.
MAF VORTAC	MA LOM	Direct	4600	Climb to 4600' on SE crs ILS within 20 miles or, turn right, climb to 4600' on MAF VORTAC, R 150° within 20 miles. Supplementary charting information: Runway 10, TDZ elevation, 2867'.
Pipeline Int	MA LOM	Direct	5000	
Goldsmith Int	MA LOM (NOPT)	Direct	4600	
Penwell Int	MA LOM	Direct	5000	
Mustang Int	MA LOM	Direct	5000	
INK VORTAC	MAF ILS (NOPT)	INK, R 065°	5500	
INK VORTAC, R 065° and MAF ILS front crs.	MA LOM (NOPT)	Direct	4600	
R 357°, MAF VORTAC CCW	MAF ILS (FC) (NOPT)	12-mile Arc MAF, R 275° lead radial.	4600	

Procedure turn S side of crs, 283° Outbnd, 103° Inbnd, 4600' within 10 miles of MA LOM.
FAF, MA LOM. Final approach crs, 103°. Distance FAF to MAP, 6.1 miles.
Minimum glide slope interception altitude, 4600'. Glide slope altitude at OM, 4533'; at MM, 3052'.
Distance to runway threshold at OM, 6.1 miles; at MM, 0.6 mile.
MSA 000°-180°—4400'; 180°-270°—5500'; 270°-000°—5100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-10	3067	½	200	3067	½	200	3067	½	200	3067	½	200
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-10	3180	½	313	3180	½	313	3180	½	313	3180	½	313
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3320	1	450	3320	1	450	3320	1¼	450	3420	2	550
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Midland; State, Tex.; Airport name, Midland-Odessa Regional Air Terminal; Elev., 2870'; Facility, I-MAF; Procedure No. ILS Runway 10, Amdt. 5; Eff. date, 21 Aug. 69; Sup. Amdt. No. 4; Dated, 29 Aug. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: DH, 309'; LOC 5.4 miles after passing OR LOM.
ORL VORTAC	OR LOM	Direct	2000	Climbing left turn to 2000' on ORL R 067° within 15 miles; or, when directed by ATC, climb to 2500' on localizer backers within 15 miles.
R 309°, ORL VORTAC CCW	ORL LOC	9-mile Arc, R 260° lead radial.	2000	
R 162°, ORL VORTAC CW	ORL LOC	9-mile Arc, R 234° lead radial.	2000	
9-mile DME Arc	OR LOM (NOPT)	LOC crs.	1900	Supplementary charting information: TDZ elevation, 109'.

Procedure turn S side of crs, 247° Outbnd, 067° Inbnd, 2000' within 10 miles of OR LOM.
FAF, OR LOM. Final approach crs, 067°. Distance FAF to MAP, 5.4 miles.
Minimum glide slope interception altitude, 1900'. Glide slope altitude at OM, 1855'; at MM, 328'.
Distance to runway threshold at OM, 5.4 miles; at MM, 0.6 mile.
MSA: 045°–135°—2600'; 135–225°—1800'; 225°–315°—2000'; 315°–045°—2100'.
NOTE: ASR.
*Increase visibility ¼ mile for inoperative ALS Runway 7.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-7	309	½	200	309	½	200	309	½	200	309	½	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7*	600	¾	491	600	¾	491	600	¾	491	600	¾	491
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	600	1	487	600	1	487	600	1¼	487	700	2	587
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Orlando; State, Fla.; Airport name, Herndon; Elev., 113'; Facility, I-ORL; Procedure No. ILS Runway 7, Amdt. 7; Eff. date, 21 Aug. 69; Sup. Amdt. No. 6 Dated, 13 Mar. 69

16. By amending § 97.31 of Subpart C to establish precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by Houston ASR minimum altitude vectoring charts.										Descend aircraft to MDA after FAF 5 miles from airport reference point.

Missed approach: Climbing right or left turn to 2000' on crs of 270° from AAP NDB within 10 miles.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	780	1	700	780	1	700	780	1¼	700	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Houston; State, Tex.; Airport name, Andrau Airpark; Elev., 80'; Facility, Houston Radar; Procedure No. Radar-1, Amdt. Orig.; Eff. data, 21 Aug. 69

17. By amending § 97.31 of Subpart C to amend precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude

Notes

As established by Los Angeles ASR minimum altitude vectoring charts.

1. Descend aircraft after passing FAF.
2. Runway 24L—FAF 6.3 miles from threshold. Minimum altitude over 2-mile Radar Fix, 760'. Runway 24L, TDZ elevation, 120'.
3. Runways 25L/R—FAF 5.4 miles from threshold. Minimum altitude over 1.9-mile Radar Fix 620'. Runways 25L/R, TDZ elevation, 100'.
4. Runways 7R/L—FAF 6 miles from threshold. Runway 7R, TDZ elevation, 124'. Runway 7L TDZ elevation, 125.
5. Runway 6R—FAF 6 miles from threshold. Runway 6R, TDZ elevation, 110'.

%IFR departure procedures: Northbound (280° CW through 060°) published SID's must be used or be radar vectored.

*PAR unusable W of ILS MM (DH 324') for aircraft below 12,500 pounds gross weight.

#Runways 6R, 7L/R, RVR 50'; Runway 24L, RVR 40'; Runways 25L/R, RVR 24'.

##Runways 6R, 7L/R, 24L, 25L/R, RVR 24'.

Missed approach:
Runway 24L—Climb on heading 250° to intercept LAX R 276° to 2000' within 15 miles.
Runways 25L/R—Climb to 2000' direct to LAX VOR then via R 248° within 15 miles.
Runways 7R/L—Climb to 2000' direct to Downey NDB. Alternate missed approach: Climb to 2000' via LAX R 068° to Firestone Int.
Runway 6R—Climb to 2000' direct to Downey NDB. Alternate missed approach: Climb to 2000' via LAX R 068° to Firestone Int.
NOTE: Components inoperative table does not apply to HIRL's and SAL's Runway 24L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
PAR:												
S-25L	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200	300	RVR 24	200
S-25R	640	RVR 50	540	640	RVR 50	540	640	RVR 50	540	680	RVR 60	580
ASR:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25L/R	520	RVR 40	420	520	RVR 40	420	520	RVR 40	420	520	RVR 50	420
S-24L	560	RVR 50	440	560	RVR 50	440	560	RVR 50	440	560	RVR 50	440
S-7R	600	RVR 40	476	600	RVR 40	476	600	RVR 40	476	600	RVR 50	476
S-7L	600	RVR 40	475	600	RVR 40	475	600	RVR 40	475	600	RVR 50	475
S-6R	560	RVR 50	450	560	RVR 50	450	560	RVR 50	450	560	RVR 50	450
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	640	1	514	640	1	514	640	1¼	514	680	2	554
A	Standard.		T 2-eng. or less—Runways 8/26, Standard.%#				T over 2-eng.—Runways 8/26, Standard.%##					

City, Los Angeles; State, Calif.; Airport name, Los Angeles International; Elev., 120'; Facility, LAX Radar; Procedure No. Radar-1, Amdt. 24; Eff. date, 21 Aug. 69; Sup. Amdt. No. 23; Dated, 19 June 69

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude

Notes

As established by Nashville ASR minimum altitude vectoring charts. Radar will provide 1000' vertical clearance within 3-mile radius of following towers: 9.5 miles NW 2049'; 9 miles W 2049'; 9 miles SW 2049'; 10 miles SSW 1490'.

1. Descend aircraft after passing final approach fix.
2. Runway 2L—FAF 5 miles from threshold (LOM). Minimum altitude over 3-mile Fix, 1500'. TDZ elevation, 597'.
3. Runway 20R—FAF 5 miles from threshold. Minimum altitude over 3-mile Fix, 1500'. Minimum altitude over 2-mile Fix, 1200'. TDZ elevation, 576'.
4. Runway 31—FAF 5 miles from threshold (BNA VORTAC). Minimum altitude over 2-mile Fix, 1200'. TDZ elevation, 574'.
5. Runway 13—FAF 5 miles from threshold. Minimum altitude over 3-mile Fix, 1500'. TDZ elevation, 572'.

HIRL Runways 2L/20R; VASI Runway 20R.
NOTE: MTI must be operating for surveillance approaches.

Missed approach:
Runway 2L—Climb to 2500' on N crs ILS or on crs 016° from BN NDB/LOM within 15 miles of airport.
Runway 20R—Climb to 2500' on S crs ILS or on crs 196° to BN NDB/LOM within 15 miles of airport.
Runway 31—Climbing right turn to 3000' on R 336° of BNA VORTAC within 15 miles.
Runway 13—Climb to 2500' direct to BNA VORTAC and hold SE on R 133° right turns, 1 minute, 313° Inbnd.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR—Continued

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-2L	960	RVR 24	363	960	RVR 24	363	960	RVR 24	363	960	RVR 50	363
S-20R	980	¾	404	980	¾	404	980	¾	404	980	1	404
S-31	1000	1	426	1000	1	426	1000	1	426	1000	1	426
S-13	960	1	388	960	1	388	960	1	388	960	1	388
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1040	1	443	1060	1	463	1060	1¼	463	1160	2	563
A	Standard.		T 2-eng. or less—RVR 24', Runway 2L; Standard all other runways.				T over 2-eng.—RVR 24', Runway 2L; Standard all other runways.					

City, Nashville; State, Tenn.; Airport name, Nashville Metropolitan; Elev., 597'; Facility, Nashville Radar; Procedure No. Radar-1, Amdt. 10; Eff. date, 21 Aug. 69; Sup. Amdt. No. 9; Dated, 24 Oct. 68

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by Orlando ASR minimum altitude vectoring chart dated 3 Dec. 1968.												Descend aircraft to MDA after FAF. FAF 5 miles from threshold all runways. Radar control will provide 1000' vertical clearance within 3-mile radius of antenna towers 949' 13.8 miles W, 1039', 24 miles N. and 1549', 13.4 miles E. Supplementary charting information: Hold SW of OR LOM, 1 minute, right turns, 067° Inbnd. TDZ elevation Runway 7, 109'. TDZ elevation Runway 13, 105'. TDZ elevation Runway 25, 113'. TDZ elevation Runway 31, 111'.

Missed approach:
Runway 7—Climbing left turn to 2000' on ORL R 040° within 15 miles.
Runway 13—Climb to 2000' on ORL R 123° within 15 miles.
Runway 25—Climb to 2000' direct to OR LOM and hold.
Runway 31—Climb to 2000' on ORL R 309° within 15 miles.
*Increase visibility ¼ mile for inoperative ALS Runway 7.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
ASR:												
S-7*	640	¾	531	640	¾	531	640	¾	531	640	1	531
S-13	640	¾	535	640	¾	535	640	¾	535	640	1	535
S-25	520	¾	407	520	¾	407	520	¾	407	520	1	407
S-31	500	¾	389	500	¾	389	500	¾	389	500	1	389
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C 25-31	540	1	427	580	1	467	580	1¼	467	700	2	587
C7-13	640	1	527	640	1	527	640	1¼	527	700	2	587
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Orlando; State, Fla.; Airport name, Herndon; Elev., 113'; Facility, Orlando ASR; Procedure No. Radar-1, Amdt. 9; Eff. date, 21 Aug. 69; Sup. Amdt. No. 8; Dated, 13 Mar. 69

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on July 16, 1969.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 69-8638; Filed, Aug. 4, 1969; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. IC-5738]

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Certain Exemptions for Registered Separate Accounts Established by Insurance Companies Proposing To Engage in the Sale of Various Annuity Contracts, Defining the Term "Separate Account" and Establishing Certain Conditions for the Availability of These Exemptions

On January 24, 1969, the Securities and Exchange Commission published notice (Investment Company Act Release No. 5586) (34 F.R. 1910) that it had under consideration the adoption of the above proposed rules under the Investment Company Act of 1940 ("Act") and invited all interested persons to submit their views and comments upon the proposals. The Commission has considered all the comments and suggestions received, and has determined to adopt these rules in the form set forth below. The rules are promulgated pursuant to authority conferred by sections 6(c) and 38(a).

I. *Rule 14a-2 [17 CFR 270.14a-2].* Section 14(a) of the Act prohibits a registered investment company or its principal underwriter from publicly offering its securities for sale unless it has a net worth of $100,000 or has made provision in connection with registration of its securities under the Securities Act of 1933 insuring that before making a public offering it will have firm agreements with no more than 25 responsible persons to purchase its securities in an amount which, when added to the then net worth of the company, if any, will equal $100,000.

Many registered separate accounts are utilized only in connection with the sale of variable annuity contracts which meet the requirements of sections 401, 403(b) or 404(a)(2) of the Internal Revenue Code, as amended ("Code"). These sections provide the criteria for pension and profit sharing plans which receive special tax treatment under the Code.

Such variable annuity contracts contemplate relatively small periodic payments made by or on behalf of a large number of individual employees. The tax treatment afforded assets arising from these payments varies from payments made under other variable annuity contracts. A privately contributed $100,000 in such account therefore requires separate accounting, and problems could occur concerning investment objectives.

Rule 14a-2 (17 CFR 270.14a-2) exempts from the provisions of section 14(a) a registered separate account having assets from variable annuity contracts sold under plans or agreements meeting the requirements of sections 401, 403(b) or 404(a)(2) of the Code. The rule provides that a sponsoring insurance company is precluded from knowingly placing non-tax-benefited money in such account at any time in the future. The rule is available to such account only if, at the commencement of the offering, the establishing insurance company possesses a combined capital and surplus if a stock company, or unassigned surplus, if a mutual company, or $1 million.

Part 270 of Title 17 of the Code of Federal Regulations is amended by adding a new § 270.14a-2 reading as follows:

§ 270.14a-2 Exemption from section 14(a) of the Act for certain registered separate accounts and their principal underwriters.

(a) A registered separate account, and any principal underwriter for such account, shall be exempt from section 14(a) of the Act with respect to a public offering of tax-benefited variable annuity contracts participating in such account: (1) If at the commencement of such offering such insurance company shall have (i) a combined capital and surplus, if a stock company, or (ii) an unassigned surplus, if a mutual company, of not less than $1 million as set forth in the balance sheet of such insurance company contained in the registration statement or any amendment thereto relating to such variable annuity contracts filed pursuant to the Securities Act of 1933, as amended, and (2) if at no time thereafter such insurance company shall knowingly place payments from contracts which are not tax-benefited in such separate account. For the purpose of this section, the term "tax benefited variable annuity contracts" means variable annuity contracts which are purchased in connection with a plan which meets the requirements for qualification under section 401 of the Internal Revenue Code, as amended ("Code") or the requirements for deduction of the employer's contributions under section 404(a)(2) of the Code, or are contracts which meet the requirements of section 403(b) of the Code.

II. *Rules 15a-3, 16a-1, and 32a-2 (17 CFR 270.15a-3, 270.16a-1, 270.32a-2).* Sections 15(a), 16(a), and 32(a) of the Act require (1) shareholder approval of the initial investment advisory agreement, (2) the election of directors by shareholders, and (3) shareholder ratification of the selection of an independent public accountant. If a registered separate account receives an exemption under section 14(a) of the Act, there are normally no security holders eligible to vote on these matters. If such account receives an exemption from section 14(a) of the Act, Rules 15a-3, 16a-1, and 32a-2 (17 CFR 270.15a-3, 270.16a-1, 270.32a-2) permit the investment adviser, directors and independent public accountants to act as such until the first meeting of variable annuity contract owners. This meeting may not be later than 1 year after the effective date of the registration statement under the Securities Act of 1933, unless the Commission grants an extension upon written request showing good cause.

Part 270 of Title 17 of the Code of Federal Regulations is amended by adding new §§ 270.15a-3, 270.16a-1, and 270.32a-2, reading as follows:

§ 270.15a-3 Exemption for initial period of investment adviser of certain registered separate accounts from requirement of security holder approval of investment advisory contract.

(a) An investment adviser of a registered separate account shall be exempt from the requirement under section 15(a) of the Act that the initial written contract pursuant to which the investment adviser serves or acts shall have been approved by the vote of a majority of the outstanding voting securities of such registered separate account, subject to the following conditions:

(1) Such registered separate account qualifies for exemption from section 14(a) of the Act pursuant to § 270.14a-2, or is exempt therefrom by order of the Commission upon application; and

(2) Such written contract shall be submitted to a vote of variable annuity contract owners at their first meeting after the effective date of the registration statement under the Securities Act of 1933, as amended (15 U.S.C. 77a et seq.) relating to variable annuity contracts participating in such account: *Provided*, That such meeting shall take place within 1 year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request showing good cause therefor.

§ 270.16a-1 Exemption for initial period of directors of certain registered accounts from requirement of election by security holders.

(a) Persons serving as the directors of a registered separate account shall, prior to the first meeting of such account's variable annuity contract owners, be exempt from the requirement of section 16(a) of the Act that such persons be elected by the holders of outstanding voting securities of such account at an annual or special meeting called for that purpose, subject to the following conditions:

(1) Such registered separate account qualifies for exemption from section 14(a) of the Act pursuant to § 270.14a-1 or is exempt therefrom by order of the Commission upon application; and

(2) Such persons have been appointed directors of such account by the establishing insurance company; and

(3) An election of directors for such account shall be held at the first meeting of variable annuity contract owners after the effective date of the registration statement under the Securities Act of 1933, as amended (15 U.S.C. 77a et seq.), relating to contracts participating in such account: *Provided*, That such meeting shall take place within 1 year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request showing good cause therefor.

§ 270.32a–2 Exemption for initial period from vote of security holders on independent public accountant for certain registered separate accounts.

(a) A registered separate account shall be exempt from the requirement under paragraph (2) of section 32(a) of the Act that selection of an independent public accountant shall have been submitted for ratification or rejection at the next succeeding annual meeting of security owners, subject to the following conditions:

(1) Such registered separate account qualifies for exemption from section 14 (a) of the Act pursuant to § 270.14a–2, or is exempt therefrom by order of the Commission upon application; and

(2) The selection of such accountant shall be submitted for ratification or rejection to variable annuity contract owners at their first meeting after the effective date of the registration statement under the Securities Act of 1933, as amended (15 U.S.C. 77a et seq.), relating to contracts participating in such account: *Provided*, That such meeting shall take place within 1 year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request showing good cause therefor.

III. *Rules 22e–1 and 27c–1 [17 CFR 270.22e–1, 270.27c–1]*. Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless it is a "redeemable security." Section 22(e) of the Act provides that no registered investment company shall (a) suspend the right of redemption, or (b) postpone the date of payment on any redeemable security for more than 7 days after its tender for redemption, except in certain prescribed circumstances. Since variable annuity contracts are considered to be periodic payment plan certificates, these redemption provisions are applicable. Accordingly, it has been necessary for each registered separate account issuing or proposing to issue variable annuity contracts to obtain an exemption from the requirement of redemption during the annuity, or pay-out, period of such contracts, since the mortality tables employed to determine payments of variable amounts for life annuitants assume that all annuitants will continue in the group and receive the payments specified in the contract. To permit redemptions during the annuity period would undermine the actuarial basis of the contracts. During the pay-in period, of course, the variable annuity contracts are fully redeemable, in whole or in part.

Rule 22e–1 (17 CFR 270.22e–1) provides an exemption from section 22(e) during the period in which the variable annuity contract holder receives payments from the separate account. Rule 27c–1 (17 CFR 270.27c–1) provides an exemption from section 27(c)(1) from the requirement that a periodic payment plan certificate be a redeemable security. These exemptions are limited to variable annuity contracts under which payments are being made based upon life expectancies.

Part 270 of Title 17 of Code of Federal Regulations is amended by adding new § 270.22e–1 and § 270.27c–1 reading as follows:

§ 270.22e–1 Exemption from section 22(e) of the Act during annuity payment period of variable annuity contracts participating in certain registered separate accounts.

(a) A registered separate account, shall during the annuity payment period of variable annuity contracts participating in such account, be exempt from the provisions of section 22(e) of the Act prohibiting the suspension of the right of redemption or postponement of the date of payment or satisfaction upon redemption of any redeemable security, with respect to such contracts under which payments are being made based upon life contingencies.

§ 270.27c–1 Exemption from section 27(c)(1) of the Act during annuity payment period of variable annuity contracts participating in certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall, during the annuity payment period of variable annuity contracts participating in such account, be exempt from the requirement of paragraph (1) of section 27(c) of the Act that a periodic payment plan certificate be a redeemable security with respect to such contracts under which payments are being made based upon life contingencies.

IV. *Rules 27a–1, 27a–2, and 27a–3 [17 CFR 270.27a–1, 270.27a–2, 270.27a–3]*. Section 27(a) of the Act provides that it shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate except in compliance with the conditions set forth therein.

Section 27(a)(1) of the Act prohibits the sales load on such a certificate from exceeding 9 per centum of the total payments to be made thereon. Rule 27a–1 (17 CFR 270.27a–1) permits a variable annuity contract to provide for a sales load which will not exceed 9 per centum of the total payments to be made thereon as of a date not later than the end of the 12th year of such payments. If a contract should be issued for a shorter period, the 9 per centum limitation must be met for such shorter period. Since section 27(a)(1) [of the Act] does not expressly provide what the permissible period shall be for bringing the sales load within the 9 per centum limitation, the effect of the rule is to establish such a permissible period for a variable annuity contract.

Section 27(a)(3) of the Act prohibits the amount of sales load deducted from any one of the first 12 monthly payments on a periodic payment plan certificate from exceeding proportionately the amount deducted from any other such payment. It prohibits, as well, the amount of sales load deducted from any subsequent payment from exceeding proportionately the amount so deducted from any other subsequent payment. The effect of Rule 27a–2 (17 CFR 270.27a–2) is to permit more than one reduction in the sales load on a variable annuity contract and to permit the first reduction to take place later than the end of the first contract year. The rule prohibits an increase in the level of deduction during the term of the contract.

Section 27(a)(4) (of the Act) prohibits the first payment on a periodic payment plan certificate from being less than $20, or any subsequent payment from being less than $10. The effect of Rule 27a–3 (17 CFR 270.27a–3) is to exempt from such prohibitions payments under variable annuity contracts (a) issued in connection with plans meeting the requirements for qualification under section 401 or the requirements for deduction of the employer's contributions under section 404(a)(2) of the Internal Revenue Code or (b) which meet the requirements of section 403(b) of such Code. The rule also exempts from section 27(a)(4) (of the Act) variable annuity contracts which permit no sales load deduction from any payment in excess of 9 per centum of such payment.

Part 270 of Title 17 of the Code of Federal Regulations is amended by adding new §§ 270.27a–1, 270.27a–2, and 270.27a–3, reading as follows:

§ 270.27a–1 Conditions for compliance with section 27(a)(1) of the Act by certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall, with respect to any variable annuity contract participating in such account, be deemed to satisfy the requirements of paragraph (1) of section 27(a) of the Act if such contract provides for a sales load which will not exceed 9 per centum of the total payments to be made thereon as of a date not later than the end of the 12th year of such payments: *Provided*, That if a contract be issued for any stipulated shorter payment period the sales load under such contract shall not exceed 9 per centum of the total payments thereunder for such period.

§ 270.27a–2 Exemption from paragraph (3) of section 27(a) of the Act for certain registered separate accounts.

(a) A registered separate account, and any depositor of or underwriter for such account, shall be exempt from paragraph (3) of section 27(a) of the Act provided that with respect to any variable annuity contract participating in such account the proportionate amount of sales load deducted from any payment during the contract period shall not exceed the proportionate amount deducted from any prior payment during the contract period.

§ 270.27a–3 Exemption from paragraph (4) of section 27(a) of the Act for certain registered separate accounts.

(a) A registered separate account and any depositor of or underwriter for such

account, shall be exempt from paragraph (4) of section 27(a) of the Act as to payments under any variable annuity contract participating in such account which (1) is purchased in connection with a plan which meets the requirements for qualification under section 401 of the Internal Revenue Code, as amended ("Code") or the requirements for deduction of the employer's contributions under section 404(a)(2) of the Code, or (2) meets the requirements of section 403(b) of the Code, but such exemptions shall apply only to contributions or payments within the exclusion allowance for any employee under section 403(b) except as clause (3) hereof applies, or (3) permits no sales load deduction from any payment in excess of 9 per centum of such payment.

V. *Rule 0–1(e) (17 CFR 270.0–1(e)).* This rule defines the term "separate account" in the same language employed in the mutual fund bill, S. 2224, which was recently passed by the U.S. Senate and is now pending before the House of Representatives. Unlike the definition in proposed Rule 6e–1 (17 CFR 270.6e–1), § 270.0–1(e) (Rule 0–1(e)) includes separate accounts established by Canadian companies. The exemptions granted pursuant to these rules are, however, much less extensive than those granted by proposed Rule 6e–1 (17 CFR 270.6e–1). Further, in order for a Canadian insurance company to operate a separate account in the United States and to avail itself of these exemptions, it would first have to apply for and obtain an exemptive order from section 7(d) of the Investment Company Act of 1940.

Rule 0–1(e) (17 CFR 270.6e–1) also establishes certain conditions to the availability of these exemptive rules. These conditions include a requirement that the separate account be "legally segregated." The Commission is aware that State legislation varies in form and substance from State to State and that not all State statutes provide that the separate account is "legally segregated". It is contemplated, however, that in States where the statute does not so provide, a separate account may meet the condition through private arrangements which render the account inviolate.

Further conditions are imposed which require that the assets of the separate account be maintained at specified levels and that a specified portion of these assets shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

Section 270.0–1 of Title 17 of the Code of Federal Regulations is amended by adding a new paragraph (e) to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.14a–2, 270.15a–3, 270.16a–1, 270.22e–1, 270.27a–1, 270.27a–2, 270.27a–3, and 270.32a–3 of this chapter.

(1) As used in this part 270 unless otherwise specified or the context otherwise requires the term "separate account" shall mean an account established and maintained by an insurance company pursuant to the laws of any State or territory of the United States, or of Canada or any province thereof, under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains or losses of the insurance company.

(2) As conditions to the availability of exemptions under §§ 270.14a–2, 270.15a–3, 270.16a–1, 270.22e–1, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and, at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

The Commission finds that the foregoing rules grant exemptions from certain provisions of the Act and may be made effective immediately, upon publication. Accordingly, the foregoing rules are declared effective July 10, 1969.

(Secs. 6, 38(a), 54 Stat. 800, 841, 15 U.S.C. 80a–6, 80a–37)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 10, 1969.

[F.R. Doc. 69–9146; Filed, Aug. 4, 1969; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.1—General

JUSTIFICATION TO SUPPORT GSA NEGOTIATED PROCUREMENT

This amendment prescribes specific and detailed information to be submitted by agencies in support of requests to GSA for negotiated procurements, particularly when negotiation under § 1–3.210 (impracticable to secure competition by formal advertising) is applicable.

Section 101–26.105 is amended by revising the introductory text preceding paragraph (a) and revising all of paragraph (b) as follows:

§ 101–26.105 Justification to support negotiated procurement by GSA for other agencies.

Each purchase request submitted by an agency to GSA requiring negotiated procurement shall be accompanied by a justification or findings and determination, as applicable. Where such justification or findings and determination does not clearly and fully support the requested procurement, the requesting agency will be so notified and requested to furnish the information sufficient to satisfy the requirements of the applicable negotiation authority. The GSA contracting officer will suspend procurement action pending receipt of the requested information.

* * * * *

(b) When the purchase request is for a requirement to be procured by negotiation under § 1–3.208 (property purchased for authorized resale) or § 1–3.210 (impracticable to secure competition by formal advertising), the request must refer to and be accompanied by a statement containing information sufficient to justify use of the negotiating authority contemplated. With respect to circumstances permitting negotiation set forth in § 1–3.210, each purchase request (1) for a particular make, model, brand, or other similarly designated item or (2) which restricts procurement action to a limited number of competing commercially available products must be justified by a statement of facts establishing the minimum needs to be fulfilled and that such needs can be satisfied only by procurement of the designated item or any one of a limited number of competing commercially available products. (Personal preference and subjective evaluations are not acceptable as sufficient justification.) Specifically, the justification statement must include the following detailed information:

(i) The specific needs to be satisfied in terms of identified tasks or work processes;

(ii) The requirements that generate the specific needs;

(iii) The characteristics of the designated item that enable it to satisfy the specific needs; and

(iv) Identification of other items evaluated and, as to each, a statement of the characteristics (or lack thereof) which preclude them from satisfying the specific needs.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date: This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: July 29, 1969.

JOHN W. CHAPMAN, Jr.,
Acting Administrator of General Services.

[F.R. Doc. 69–9115; Filed, Aug. 4, 1969; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4675]

[Colorado 2704]

COLORADO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. Public Land Order 2632 of March 13, 1962, withdrawing lands for the Savery-Pot Hook Project, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 12 N., R. 91 W.,
Sec. 22, lots 13 to 16, inclusive;
Sec. 23, lot 13;
Sec. 26, lots 3 to 7, inclusive, and lots 9 to 16, inclusive;
Sec. 27, lots 1 to 11, inclusive, and lots 13, 15, and 16;
Sec. 28;
Sec. 33;
Sec. 34, lots 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, and 16;
Sec. 35, lots 1, 2, 7, and 8.

The areas described aggregate 3,189.95 acres in Moffat County.

The lands are located between Timberlake and Fourmile Creeks, 2 to 4 miles south of the Wyoming State line. The vegetative cover is principally sagebrush and mixed native grasses. Topography is gently rolling.

2. At 10 a.m., on September 4, 1969, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on September 4, 1969, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the U.S. mining laws at 10 a.m., on September 4, 1969. They have been open to applications and offers under the mineral leasing laws.

Inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Federal Building, Denver, Colo. 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JULY 30, 1969.

[F.R. Doc. 69-9120; Filed, Aug. 4, 1969; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 69-836]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments

In the matter of Amendment of § 73.202, Table of Assignments, FM Broadcast Stations. (Doniphan, Mo., Princeton, W. Va., Auburn, Nebr., Cayce, S.C., Sallisaw, Okla., Heber Springs, Ark., Preston, Minn., Barnstable, Nantucket, and Falmouth, Mass., Mineral Wells, Tex., Fayette, Hartselle, and Talladega, Ala., Mariposa, Calif., Greenville, Hartford, Cadiz, Elizabethtown, Burnside, and Greensburg, Ky., Flora, Ill.), Docket No. 18476, RM-1356, RM-1359, RM-1360, RM-1364, RM-1368, RM-1373, RM-1374, RM-1376, RM-1377, RM-1378, RM-1379, RM-1382, RM-1383, RM-1389, RM-1390, RM-1391, RM-1414.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 69-207, issued in this proceeding on March 6, 1969, and published in the FEDERAL REGISTER on March 13, 1969 (34 F.R. 5120), proposing a number of changes in the FM Table of Assignments advanced by various interested parties. All comments filed pursuant to the notice were considered in making the following determinations. Except as noted, the proposals were unopposed and all population figures were obtained from the 1960 U.S. Census. This decision disposes of all the subject petitions, except RM-1368, 1376, 1378, 1390, and 1414, which will be included in a future order.

2. *RM-1356, Doniphan, Mo. (Jack G. Hunt); RM-1360, Princeton, W. Va. (Mountain Broadcasting Co.); RM-1374, Auburn, Nebr. (Stereo Broadcasting, Inc.); RM-1379, Sallisaw, Okla. (Big Basin Broadcasters, Inc.); RM-1383, Heber Springs, Ark. (Newport Broadcasting Co.); RM-1391, Preston, Minn. (Obed S. Borgen).* In the above cases, interested parties are seeking the assignment of a first Class A channel in a community without requiring any other changes in the table. All proposed assignments are alleged and appear to meet the minimum separation requirements of the rules. The communities range in size from 1,421 persons for Doniphan, Mo., to 8,393 for Princeton, W. Va. We are of the opinion that the named communities merit the requested assignments and that such assignments would serve the public interest. We are therefore assigning the proposed channels as follows:

City	Channel No.
Doniphan, Mo.	249A
Princeton, W. Va.	240A
Auburn, Nebr.	288A
Sallisaw, Okla.	240A
Heber Springs, Ark.	244A
Preston, Minn.	276A

3. *RM-1364, Mineral Wells, Tex.* On October 31, 1968, E. H. Hall, B. L. Hall, and R. E. Harbus filed a joint petition looking toward assignment of a first Class A channel to Mineral Wells, Tex. Mineral Wells has a population of 11,053 persons and is located about 45 miles west of Fort Worth. The only local aural outlet presently serving the community is a daytime-only AM station.

4. Petitioner initially proposed Channel 221A, which could be assigned without any other changes in the table, but acquiesced to a counter-proposal submitted by A. H. Belo Corp., licensee of TV Station WFAA-TV, Channel 8, Dallas, Tex., who opposed assignment of Channel 221A on the grounds that it offered potential second harmonic interference to reception of WFAA-TV in the Mineral Wells area. Belo proposed assignment of Channel 240A at Mineral Wells by the following means:

City	Channel No.	
	Present	Proposed
Abilene, Tex.	239	290 or 300
Mineral Wells, Tex.		240A

No comments or oppositions were filed in response to our invitation for comments in the notice on the above proposal.

5. We are of the opinion that assignment of a first Class A channel to Mineral Wells is warranted and would serve the public interest. Accordingly, we are assigning Channel 240A to Mineral Wells. Since no preference has been indicated for either of the alternate replacement channels for Channel 239 to be deleted at Abilene, we are assigning Channel 300 there since its preclusion impact on other possible assignments in the area would appear to be less than would be the case for Channel 290. This is not an area where possible assignments are scarce.

6. *RM-1373, Mariposa, Calif.* In a petition received October 21, 1968, and supplemented on November 27, 1968, Northern California Stereocasters, licensees of KVFS(FM), Vacaville, Calif., seeks assignment of Class B Channel 284 to Mariposa, Calif. Mariposa has a population of 550 persons (Rand McNally & Co., Commercial Atlas (1962)), and is the county seat of Mariposa County, which has a population of 5,064. There are presently no AM or FM assignments in Mariposa County. A large portion of the county lies within the boundaries of Yosemite National Park.

7. The petitioner submits that Mariposa has a current population of 1,750

persons, a 125 percent increase over the 1960 Census report. In support of the proposal for a Class B in lieu of a Class A channel, petitioner urges that a Class B facility is necessary in order to better penetrate and to provide FM service to a wide unserved area ("white area") in the rough and mountainous terrain common to the Mariposa-Yosemite National Park area. A showing is provided indicating that substantially greater "white" and "gray" areas, located generally to the east of Mariposa, would be served by an anticipated 25 kw. Class B operation over that obtainable from a maximum Class A facility. The showing is represented as being based upon assumed reasonable facilities for both unoccupied and operating FM assignments in the area. We do not agree with the petitioner's calculated contours used in making the "white area" showing; however, it does appear that a first FM service would become available to a significant area if based on 1 mv/m contours properly determined. In response to our request in the notice for this proceeding, petitioner states that it would file an application specifying a minimum of 25 kw. ERP with an antenna height of 660 feet above average terrain, if the proposed assignment is adopted.

8. The proposed assignment appears to satisfy the spacing requirements of the rules and a study is furnished from which petitioner concludes that assignment of Channel 284 to Mariposa would not adversely affect assignment of the proposed or six adjacent channels in the general area.

9. As we stated in the notice, ordinarily a small community the size of Mariposa is only considered for a Class A channel assignment. However, because of the relatively isolated location of the community in a sparsely populated mountainous area, the planned facilities to be applied for and the first FM service that would be provided thereby, we are of the opinion that assignment of a first Class B channel in lieu of a Class A is warranted in this case, and would, therefore, serve the public interest. For these reasons we are assigning Channel 284 to Mariposa, Calif. It is expected that any applications filed for the channel will be for facilities at least equivalent to what petitioner has represented it would apply for if the proposal were adopted.

10. *RM–1382, Flora, Ill.* On December 20, 1968, a petition was received from Thomas S. Land and Bryan Davidson, doing business as Salem Broadcasting Co., Salem, Ill., seeking amendment of the table to assign either Class A Channel 265A or 280A, or both, to Flora, Ill.

11. Petitioner is an applicant (BPH–6321) for a new FM station at Salem, specifying the sole Channel, 249A, assigned to Salem. Two other competitive applications are pending (BPH–6200 and BPH–6278) for use of the same channel at Flora. The latter applications were filed under the former "25-mile" rule (73.203(b)), since Flora and Salem are 25 miles apart. The three applications, being mutually exclusive, have been designated for hearing in a consolidated proceeding, Dockets 18288–90.

12. Flora has a population of 5,331 and is the largest community of Clay County, which has a population of 15,815. There are presently no AM or FM assignments in Clay County, although an application is pending for a new daytime AM station at Flora by one of the Flora FM applicants. Salem is a community of 6,165 persons and is the county seat of Marion County, population 39,349. The single AM station (daytime) at Salem is licensed to petitioner.

13. The petitioner submits that allocation of one or both of the channels available to Flora would meet the demands for service at Flora, as evidenced by two pending applications there, and that it would permit use of the channel originally assigned to Salem by the Salem applicant (petitioner). It is further urged that adoption of the proposal would simplify the pending hearing proceeding referred to above and foster the purposes of 307(b) of the Act. The petition is supported by an engineering study demonstrating that Channels 265A and 280A will satisfy all spacing requirements at Flora.

14. We noted in the notice for this proposal that Salem and Flora are each of sufficient size to merit a first FM assignment, notwithstanding their current involvement in a competitive hearing proceeding. Because of the small size of Flora, we further stated that our consideration would be limited to assignment of one channel to that community, and in view of the lesser involvement of Channel 280A with regard to preclusion of assignments from other communities, that channel was preferred over Channel 265A. There were no oppositions filed in response to this proposal. In view of these considerations, we conclude that asssignment of Channel 280A to Flora, Ill., will serve the public interest, and we are hereby adopting such assignment.

15. By ordering clauses contained herein below, the application of Flora Broadcasting Co., BPH–6200, Docket 18288, and Doyle Ray Flurry, BPH–6278, Docket 18289, both specifying operation at Flora, Ill., may be amended in hearing to specify Channel 280A in lieu of Channel 249A and the application of Thomas S. Land and Bryan Davidson, doing business as Salem Broadcasting Co., BPH–6321, Docket No. 18290, specifying operation at Salem, Ill., on Channel 249A, will also be retained in hearing status.

16. *RM–1359, Barnstable and Nantucket, Mass.* On October 15, 1968, Cape Cod Broadcasting Co., prospective applicant for a new FM station at Barnstable, Mass., filed a petition requesting the assignment of Class B Channel 260 to Barnstable by deleting it from Nantucket, where it is neither occupied nor applied for, and substituting 228A or 284 therefor, as follows:

City	Channel No.	
	Present	Proposed
Barnstable, Mass.		260
Nantucket, Mass.	260	228A or 284

Barnstable, with a population of 13,465 persons, is located in Barnstable County on Cape Cod, Mass.[1] Barnstable County has a population of 70,286 and includes, essentially, all the land area generally referred to as Cape Cod. There are presently three aural facilities operating on Cape Cod (Barnstable County): WCOD, a Class B FM station at Hyannis (population 5,139), and WOCB(AM)–FM, a Class IV AM and Class B FM commonly owned combination at West Yarmouth (population 1,365). Construction of an AM daytime station is also authorized for Orleans in Barnstable County.

17. The engineering statement accompanying Cape Cod's petition states that no Class B channel is available to Barnstable meeting the spacing requirements without making changes in the table. The engineering study shows that Channel 260, if shifted from Nantucket, will meet the spacing requirements in Barnstable. It is also shown that either Channel 228A or 284 could be used satisfactorily at Nantucket as a replacement. It is further shown that, because of existing assignments in the area, no preclusion impact would result to any community on any of the pertinent adjacent channels (257A through 263) if the proposed shift of Channel 260 were adopted, nor would any land area or additional communities be precluded from Channel 260 over that presently caused by its assignment at Nantucket. Regarding the choice of a replacement channel for Nantucket, petitioner points out that the community has a population of 2,804 persons, that the entire island has an area of only 46 square miles containing a total population of 3,484 persons, and that it has no AM or FM assignment, other than the unused Channel 260. Cape Cod suggests that, in view of Nantucket's limited area and population, a maximum Class A facility appropriately situated could provide a 1 mv/m contour over the entire island, and that, although a Class

[1] The place Barnstable referred to herein, unless otherwise indicated, is intended to mean the Town of Barnstable, a political and geographic subdivision of Barnstable County, which includes Hyannis, the village of Barnstable, and numerous other unincorporated places. The Cape Cod petition leading to this rule making listed 13 such places; according to the Post Office Department National Zip Code Guide (1966), 12 places in the town, including Hyannis and Barnstable (village) have separate post offices. The 1960 U.S. Census lists Hyannis (5,139) and Osterville (1,094) as among unincorporated communities in Massachusetts with populations of 1,000 or more. Barnstable (village) is not so included; the Rand McNally Road Atlas (1969 edition) shows it as the county seat of Barnstable County, with a population of 800.

B and several Class A channels are available for assignment to Nantucket, it is shown that Channel 228A could be assigned there without causing preclusion on Channel 225 through 231 to any other land area, thus providing the ultimate in allocation efficiency.

18. The petitioner submits numerous statistical data on population growth, employment, industry, social, religious, civic, and educational activities to support its contention that the Town of Barnstable is the geographic, political, social, and economic center of the entire Cape Cod area. It is urged that Barnstable's status as the major political subdivision and site of the county seat serves to support the community's need for its own local outlet. Cape Cod states that Barnstable's principal economic interests are based on its attraction as a summer residence and resort area. Special emphasis is placed on the past and projected growth in population for Barnstable Town and its county, as well as the seasonal variation. Petitioner notes that the permanent populations for the town and county practically doubled between 1940 and 1965; that between 1950 and 1960 it advanced 28.5 percent for the town and 50.2 percent for the county, the greatest increase during this period of any county in the State; and that the town population rose 16 percent between 1960–65. The 1965 population for Barnstable Town is reported as 15,609, and Barnstable County, 73,557. Barnstable Town is expected to rise to 22,000 by 1980. It is finally estimated that the town's summer residents will reach 31,000 by 1980, compared with 15,513 in 1960. By 1980, it is anticipated that the number of Cape Cod summer daytime visitors will approach 500,000 on weekends.[3]

19. Cape Cod asserted in its petition that "At present the Town of Barnstable has no local transmission service even though the need exists for one." Charter Broadcasting Corp. (Charter), licensee of WCOD(FM), Hyannis, vigorously disputes this assertion in comments opposing the proposed assignment. It contends that its operation, licensed and using a channel assigned to Hyannis, in Barnstable Town, serves as a local outlet for the town, with both its studio and transmitter being very close to the town offices and town police headquarters, and the village of Hyannis being the focal point of activities both for the town and for the entire Cape Cod area. In reply to Cape Cod's assertion that WCOD's program format is not adequate to meet growing needs, Charter calls attention to its program efforts in the brief period since it went on the air (June 1967), including stereo and various programs of local significance to the Cape Cod area. These efforts, it is asserted, are particularly noteworthy in view of the strong competition it faces, with a powerful AM–FM combination (affiliated with the Cape's daily newspaper) in nearby West Yarmouth, Plymouth AM–FM stations also being received and a considerable force in the market, and service from stations at New York, New Bedford, Providence, and elsewhere (no technical data supporting these claims of service is presented). It is claimed that actually Cape Cod seeks to serve the village of Barnstable; Charter points out that of 130 town officials for 1967 listed in Cape Cod's petition, only nine live in the village of Barnstable compared to 43 in Hyannis. It appears, however, that the village of Barnstable is the seat of the county government of Barnstable County.[5] Charter also asserts that the proposed Cape Cod transmitter location (Shootflying Hill) actually indicates a desire for wide-coverage rather than local service, and that actually the WCOD transmitter and studio are closer to the village of Barnstable than is that location. Cape Cod and Charter make other arguments pro and con, which need not be detailed here, concerning the character of WCOD's local service and the showing of need for an additional outlet. In conclusion Charter asks why the public interest would be served by assigning two powerful FM stations within a mile of each other, with a powerful AM–FM combination in the neighboring town (at West Yarmouth), service in the area (and competition) from the other stations mentioned above, and a newly authorized AM station at Orleans.

20. In reply[4] to Charter's opposition, petitioner asserts that it is not shown that its extensive showing of Barnstable's need for the proposed assignment is invalid, or that the numerous data provided in support of its claim that the Town of Barnstable is the "geographic, political, social, and economic center of the entire Cape Cod area" are in any way inaccurate. While acknowledging existence of the Hyannis FM operation, it is petitioner's position that there is a pressing need for the entire Town of Barnstable to be served in view of the area's rapidly expanding population and economy. As to the claim that the area is served by other stations, petitioner notes that the assertion is without engineering support, and contends that, regardless of other stations receivable in the area, the need of the Town of Barnstable for a local outlet has been amply demonstrated.

21. Cape and Islands Broadcasting Co., Inc., a petitioner in this combined proceeding for a Class B assignment at Falmouth, Mass. (RM–1377, paragraph 26, below), does not oppose assignment of a Class B channel to Barnstable, but submits a counterproposal which would assign Channel 284 to Barnstable—without making any changes in existing assignments. Cape and Islands points out that its proposal would eliminate the need to disturb the Nantucket assignment and urges that, since the area to which Channel 284 can be utilized is limited, greater flexibility would be achieved by retaining the more flexible Nantucket assignment for possible future use elsewhere in the area in the event it is not ultimately utilized on Nantucket.

22. Petitioner objects to Cape and Islands' counterproposal to assign Channel 284 to Barnstable in lieu of Channel 260. By an accompanying engineering statement, it is shown that use of Channel 284 would require a site in another community to the east, outside the town limits of Barnstable, in order to meet the minimum spacing requirements of the rules. It is submitted that no showing is made pursuant to 73.203(a)(4) that a suitable site for Channel 284 would be available satisfying the various requirements. By contrast, it is urged that its own proposal for assignment of Channel 260 would permit use of a site on elevated Shootflying Hill in the approximate center of Barnstable where, by virtue of an existing 345-foot (amsl) radio tower, aeronautical and zoning approval can be expected. It is concluded that assignment of Channel 260 would represent a superior choice over Channel 284, since it would permit a centrally located site within the principal community and area intended to be served. It is asserted that the Cape-Islands' suggestion is apparently an effort to preclude a Barnstable station from serving the Falmouth area, to the west, by forcing it to locate further east.

23. In connection with this matter and the arguments of Cape Cod and Charter, and also the matter of assignment(s) to Falmouth, Mass., covered below, it is appropriate to discuss briefly the concept of the "town", in Massachusetts and other New England States, as it relates to the Commission's channel assignment processes. In most of the country a "town" is a specific settled center of population; but the towns in Massachusetts and other New England States are, rather, geographic and political subdivisions of counties. The 1960 U.S. Census recognizes this distinction, and includes New England "towns" in its listing of communities in each State (Table 8 for each State) only if they meet certain standards of population (25,000 or more, or 1,500 persons or more per square mile) so as to be classified as "urban towns". A New England town may include a number of individual population centers, such as those in Barnstable Town (footnote 1, above). The town itself is incorporated and has some of the functions usually associated with local governments. The places within the town, such as Hyannis and the village of Barnstable, are often unincorporated even when they are of substantial size. In Massachusetts (and Maine and New

[3] For its population analysis, petitioner cites as sources the U.S. Census and the Massachusetts Department of Commerce and Development. Projections are derived from a report, Cape Cod 1980, prepard by Blair Associates, Inc., for the State of Massachusetts and Barnstable County.

[5] Of the letters from local organizations submitted by Cape Cod in its reply comments, some show Hyannis and some Barnstable addresses, with more of the former.

[4] On Apr. 18, 1969, Cape Cod filed a request that the date for filing reply comments be extended from Apr. 24, 1969, to May 5, 1969. The request was granted; however, through inadvertence, the order extending the time was not issued. Thus, the reply comments filed by Cape Cod on May 5, 1969, are being considered in this proceeding.

Hampshire) individual places are not incorporated unless they have populations of 10,000 or more, unlike the practice in most of the country. The Commission's FM Table of Assignments contains assignments to both towns and individual communities within a town.[5]

24. We have carefully considered all the comments and data submitted by participating parties in this case and conclude that the public interest would be served by assigning Channel 260 to Barnstable and substituting Channel 228A in its place at Nantucket. Although, for allocation purposes, this might be construed as a second assignment for the Town of Barnstable because of the existing Hyannis assignment—which is contrary to petitioner's contention—we are persuaded by the showings in this proceeding that Barnstable and its importance to the Cape Cod area present sufficient unique circumstances in its favor to warrant the assignment. In reaching this decision we have taken into account a number of aspects, including the total lack of preclusion impact that would result from reassigning the channel from Nantucket to Barnstable; the same is true for the assignment of Channel 228A at Nantucket. Furthermore, because of Cape Cod's extension from the mainland and its corresponding isolation from mainland assignments, sufficient channels appear to be available to supply other reasonable needs for the Cape area in the foreseeable future. We believe that showings of population growth experienced in Barnstable, the high influx of summertime residents and tourism, and the significant growth projected over the next 10-year period distinguish the community from the more usual circumstances attending requests for additional FM assignments in communities of this size on the mainland. Aside from the tourist and summer resident influx, the population of Barnstable Town (over 13,000) is greater than that of some places which have been assigned two FM channels. As to Charter's position that the assignment should be denied because the area has available a number of FM services, it is recognized that the additional assignment will probably not add a first or second FM service to any land area; however, it will offer present and future residents of Barnstable a second choice of local FM programing, and will provide an additional Cape Cod-based facility to most of the remaining Cape area. With respect to the Cape and Islands counterproposal that Channel 284 be assigned to Barnstable instead, we do not believe that this proposal is preferable, in view of the fact that a station using it would have to be located some distance outside of the Town of Barnstable (some 5 miles from the village of Barnstable and more than 10 miles from the furthest point in the town), and in view of the absence of impact from a Channel 260 assignment.

25. With respect to assignment to the "Town" or "village" of Barnstable mentioned above, § 73.202(b) of our rules does not specify, in connection with New England assignments to towns and individual places of the same name, which is meant. This will be true in this case. However, while a Class B/C assignment to a place as small as the village of Barnstable (population 800) is not unprecedented, it would be unusual, and the assignment here is being made primarily on the basis of the showing as to the needs of the town rather than the village. Therefore, it is expected that the proposed facilities sought in applications will provide the signal required for principal city service in § 73.315(a) of the rules (70 dbu, 3.16 mv/m) to all of the Town of Barnstable.

26. We stated in the notice that, in absence of a convincing showing to the contrary, we proposed to assign Channel 228A to Nantucket as a replacement channel, in lieu of Class B Channel 284. Since no comments in opposition were directed specifically to this aspect of the matter we are adopting our proposal to assign Channel 228A. In view of the above discussions, we are assigning Channel 260 to Barnstable, Mass., and substituting Channel 228A for 260 at Nantucket, Mass.

27. *RM–1377 and RM–1389, Falmouth, Mass.* Separate petitions were received from two prospective FM applicants at Falmouth, Mass., each requesting rule making to assign a different FM channel to Falmouth. The first petition, filed November 22, 1968, by Paul A. Christo proposes assignment of Class B Channel 270. Christo later became the president of Cape and Islands Broadcasting Co., Inc., and filed comments herein as such. The second, filed December 31, 1968, by Falmouth Broadcasting Co., Inc., requests assignment of Class A Channel 240A. Falmouth, with a population of 13,037, is located in the extreme southwest area of Cape Cod in Barnstable County, the latter having a population of 70,236.[6] The community has neither FM Channels nor AM stations assigned. An application filed by the second petitioner, Falmouth Broadcasting, is pending for an AM daytime station at Falmouth.

28. In support of its petition, Christo (Cape and Islands) submits that the community and its county are increasing in population at a significant rate over and above increasing tourism in the area and that, although there are AM and FM stations operating at West Yarmouth and Hyannis, as well as a pending petition to assign an FM channel to Barnstable, allocated on Cape Cod, the Cape Cod area surrounding Falmouth still has a need for a locally oriented facility of the type its proposal would provide. The petitioner also claims that the assignment would permit a first local 70 dbu (3.16 mv/m) coverage to 95 percent of Martha's Vineyard, whose total 1960 population was 5,763. It is emphasized by Christo that, since the land area to which Channel 270 may be assigned is restricted to the immediate area of Falmouth, the channel would likely lie fallow if its proposed assignment is not adopted.

29. Both petitioners submit that their respective channel proposals will meet the spacing requirements of the rules. Christo's petition contains a preclusion study for Channel 270 and the pertinent adjacent channels, from which it appears that Channels 269A, 270, and 272A would involve preclusion areas, one or more of which contain Martha's Vineyard, Nantucket Island, or the eastern area of Cape Cod. However, none of the areas include an individual community without an FM assignment comparable in size, or for which it does not appear that other channels are available for assignment. A detailed preclusion study is not provided by Falmouth Broadcasting as to impact its proposal for assignment of Channel 240A would have. However, from our own analysis, it appears that Channel 240A would be totally precluded from future assignment on all of Cape Cod, Martha's Vineyard, and Nantucket, if the assignment were to be adopted. Adjacent Channel 242 would also be precluded from Nantucket. However, it appears that adequate channels are available in the impact areas to meet reasonable needs for assignments in the future in places where they do not already exist.

30. In the notice for this case, we stated that we were not of the opinion that Falmouth warranted assignment of two FM channels, based on information provided by petitioners at that time, particularly when it would result in a mixture of Class A and B channels in the same community. In response to the notice, Falmouth Broadcasting takes the position that a Class A FM channel is adequate to serve the diverse and special needs of the community of Falmouth, and that there would be adequate local economic and popular support without the need to seek regional coverage in competition with other regional stations operating either at Falmouth or the Cape Cod area. On the other hand, it suggests that refusing to provide for a Class A channel and making only a Class B channel available to Falmouth would diffuse the obligation of a future licensee to serve all of the additional service area, with a consequent dilution of service to the special needs of the local community.

[5] Of 26 listings for Massachusetts in the FM Table (§ 73.202(b) of the rules), 17 are incorporated cities (Boston, etc.); three are towns without any other communities within them (Brookline, Framingham, and North Attleboro, the first two being "urban towns" for Census purposes); four are both towns and unincorporated communities of the same name within the town (Greenfield, Nantucket, Plymouth, and Southbridge), and two are unincorporated places within towns of different names (Hyannis and West Yarmouth, both on Cape Cod). Of the places listed in the U.S. Census (Table 8) as Massachusetts communities, 39 are incorporated cities, 32 are "urban towns" (see above), and the remaining 120 are unincorporated places included in towns. See 1960 U.S. Census of Population, Vol. I, Part A, pp. XII, XXI–XXII and (for Massachusetts) pp. 23–11 to 23–14.

[6] The place Falmouth, as referred to herein, unless otherwise indicated, is intended to mean the Town of Falmouth, a political and geographical subdivision of Barnstable County, which includes the unincorporated places of East Falmouth (1,655) and Falmouth (3,308).

Christo advances its contention that circumstances prevail which warrant assignment of both a Class A and Class B channel to Falmouth. Noting that the Class A proponent is also an applicant for a daytime AM facility at Falmouth,[1] it is urged that the policy against intermixture of classes of stations in the same community need not be applied where the parties propose an independent Class B operation on the one hand and a daytime AM and Class A FM operation on the other. The existence of similar competitive operations throughout the country is cited in support of this position. Christo further sets forth the possibility of an alternative to assigning both channels to Falmouth—assigning the Class A channel to Bourne/Otis Air Force Base with the suggestion that such an arrangement would permit the actual use of the channel at a number of other nearby communities located within 10 miles. Falmouth Broadcasting discounts the alternate proposal on the grounds that no showing is made of needs or interests to justify a separate assignment.

31. We are faced here with essentially the same unique set of circumstances which prevail in an associated rule making for Barnstable, RM-1359, contained in the instant "package" proceeding, where we are assigning a second channel. The Towns of Falmouth and Barnstable are essentially equal in size and population, and both are attractive as summertime recreation and resort areas with an accompanying heavy influx of summer residents, visitors, and tourism. According to Falmouth Broadcasting, the summer population for the area increases from 2.5 to 4 times, augmented additionally by automobile and boat transients. Much of the statistical data cited in the Barnstable case are equally valid here; in fact, parts of the same data are cited by the Falmouth petitioners. We note the very limited land area in the immediate vicinity of Falmouth proper where the proposed Class B channel must be used to meet the spacing requirements of the rules, and for which, coincidentally, the preclusion impact is negligible, another distinct similarity to the Barnstable proposal. Indeed, the proposed channel appears to be the only Class B channel assignable to the Falmouth area of Cape Cod. Thus, if consideration is to be given to assignment of a second channel, it must be restricted to a Class A. As noted previously, Channel 240A at Falmouth would preclude its future assignment over the entire Cape Cod area, but sufficient Class A channels appear available in the area to provide any future needs determined to be in the public interest. Thus, the preclusion aspects are not a bar to favorably considering simultaneous assignments. With respect to the question of intermixing classes of stations in the same community, since only one Class B channel is available, there is no other alternative if two channels are to be assigned. Both petitioners support this arrangement by showing that their proposals would provide the means to attain their individual objectives as to service.

32. In view of the above, we conclude that assignment of Channels 240A and 270 to Falmouth, Mass., would serve the public interest. We are therefore adopting each of the proposed assignments. As in the case of the assignment to Barnstable mentioned above, it is expected that the applicants for the assignments at Falmouth will specify facilities providing a principal-city signal to the entire town.

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

34. In view of the above determinations: *It is ordered*, That effective September 9, 1969, § 73.202 of the Commission's rules and regulations is amended to read, insofar as the communities named are concerned, as follows:

City	Channel No.
Arkansas:	
Heber Springs	244A
California:	
Mariposa	284
Illinois:	
Flora	280A
Massachusetts:	
Barnstable	260
Falmouth	240A, 270
Nantucket	228A
Minnesota:	
Preston	276A
Missouri:	
Doniphan	249A
Nebraska:	
Auburn	288A
Oklahoma:	
Sallisaw	240A
Texas:	
Abilene	257A, 264, 286, 300
Mineral Wells	240A
West Virginia:	
Princeton	240A

35. *It is further ordered*, That the applications of Flora Broadcasting Co., File No. BPH-6200, Docket No. 18288, and Doyle Ray Furry, File No. BPH-6278, Docket No. 18289, both specifying operation at Flora, Ill., may be amended to specify Channel 280A in lieu of 249A and the amended applications will be retained in hearing status.

36. *It is further ordered*, That the application of Thomas S. Land and Bryan Davidson, doing business as Salem Broadcasting Co., File No. BPH-6321, specifying operation at Salem, Ill., on Channel 249A, will be retained in hearing status in Docket No. 18290.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: July 29, 1969.

Released: August 1, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[2]
BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-9149; Filed, Aug. 4, 1969; 8:47 a.m.]

[Docket No. 17562 etc.; FCC 69-844]

PART 73—RADIO BROADCAST SERVICES

Presunrise Operation

In the matter of "Pre-sunrise" operation by Class II stations under presunrise service authorization on U.S. I-A clear channels, Docket No. 17562; Amendment of section 73.99 of the Commission's rules (Presunrise Service Authority) to specify 6 a.m. "local time," Docket No. 18023; "Pre-sunrise" operation by Class II stations on U.S. Class I-A channels before 6 a.m., Docket No. 18036.

1. These proceedings are concerned with regularizing the sign-on practices of Class II (secondary) daytime and limited-time standard broadcast stations assigned to the U.S. I-A clear channels. The presunrise operating privileges of Class III (regional) stations, Class II stations assigned to I-B clear channels, and Class I-B clear channel stations were permanently adjusted after lengthy rule making proceedings in Docket No. 14419—Report and Order, 8 FCC 2d 698 (1967), aff'd in WBEN, Inc. v. United States, 396 F. 2d 601 (2d Cir.) (1968), cert. denied, 393 U.S. 914 (1968). Sections 73.87 and 73.99 of the rules, adopted in connection with that proceeding, forbid regular program transmission outside licensed hours by daytimers and limited-time stations on Class III and Class I-B channels except in accordance with a supplemental type of authorization called a Presunrise Service Authority (PSA). More than 1500 PSA's are currently outstanding.

2. At present, the early morning operating practices of Class II stations assigned to U.S. I-A clear channels are regulated by § 73.99(b)(1) of the rules and the note thereto, under which they may, if located west of the cochannel dominant station, commence operation either at 6:00 a.m. "standard" (nonadvanced) time or sunrise at the dominant station, whichever is later.[1] Full daytime or critical hours power is used, depending upon the licensed post-sunrise mode of operation. For Class II stations east of the cochannel dominant station, presunrise operation is flatly proscribed.

3. The interference protection status of the 25 U.S. I-A clear channel stations is unique, in that it derives mainly from their exclusivity of assignment within

[1] An application for a new AM station, tendered for filing on Dec. 19, 1969, by Falmouth Broadcasting, and accompanied by a request for waiver of the provisions of Note 2 to section 1.571 of the rules, which govern the acceptance of AM applications, has not yet been acted upon (see 13 FCC 2d 866).

[2] Commissioner Robert E. Lee absent, Commissioner Cox not participating on changes in Cape Cod area.

[1] This applies to presunrise operation only, it being understood that all stations may observe their licensed sign-on. During the late spring, summer months and early fall months this is often earlier than 6 a.m.

the North American Region, rather than from specific contour protection as is the case with other classes of standard broadcast stations.[3] The use of these channels by Class II daytime and limited-time stations during the early morning transitional hours is further complicated by the fact that our method for calculating cochannel interference presupposes a condition of total daylight or darkness along the entire transmission path. Where Class II sign-on times are keyed to sunrise at dominant stations to the east, as has historically been the case with Class II's operating on U.S. I–A clear channels, a changing situation exists in which a "shadow wall" is moving from east to west as the earth rotates eastward on its axis. Thus, even after sunrise at the dominant station, a substantial part of its normal service area is still in darkness and subject to "residual" skywave effects from cochannel operations to the west. The impact of this type of interference decays rapidly as the shadow wall progresses westward and the transmission path becomes more light than dark.

4. In Docket No. 14419, we dealt with the problem of Class II daytimers operating on the Class I–B clear channels by keying their operations to sunrise at the dominant station to the east, with power reduced to the extent necessary to protect I–B assignments (if any) to the west. (Because of the prevalence of Class I–B stations in the western United States, relatively few daytimers in this category qualify for the 500-watt PSA maximum.) The situation of Class II stations operating on I–A clear channels is not entirely analogous, in that Class I–A stations are licensed on an exclusive nighttime basis, except for specific exceptions mentioned in the rules and noted above. Moreover, they are geographically concentrated in the east. Finally, the relatively few Class II's assigned to Class I–A clear channels makes for lighter channel loading with correspondingly fewer "cumulative" interference problems. The presunrise accommodations reached on the I–B clear channels in Docket No. 14419 therefore do not provide a wholly satisfactory reference base for deciding the instant proceedings.

5. Simply stated, we are in these proceedings dealing with the presunrise operating status of 56 daytime and limited-time Class II stations assigned to the 25 U.S. I–A clear channels. With respect to the 30 such stations west of their I–A dominants, the issues revolve around starting times and powers. For the 26 stations east of their dominants, the issue is whether presunrise operation should be permitted at all.[3]

6. Because station ownership is subject to change, the temporary nature of programing decisions by individual licensees, and many other factors cited in our basic presunrise decision (Docket 14419, supra) and the Appendix hereto,[3a] we adhere to the view that presunrise operating privileges—including those involved in these proceedings—must be determined by relatively simple, easily administered engineering standards, designed to provide for early morning services by secondary stations to the extent possible without jeopardizing the clear channel mission of Class I–A stations.

7. Of major importance to these proceedings is the recent United States-Mexican "Pre-sunrise" agreement ratified by the U.S. Senate June 19, 1969, and currently awaiting ratification by Mexico. Assuming completion of ratification and entry into force, approximately 50 Mexican Class II stations will become eligible for presunrise operation with their daytime facilities on U.S. I–A clear channels, on the basis of 6 a.m. local time and 0.5 mv/m (50 percent skywave) protection to cochannel U.S. I–A stations. Conversely, approximately 250 U.S. Class II stations assigned to Mexican I–A clear channels will, for the first time, be permitted to operate in like manner. The reciprocal benefits thus conferred are limited to 500 watts. This limitation agrees with the domestic PSA power ceiling of 500 watts—§ 73.99(b)—and was determined to be an appropriate international limitation, owing in part to the cumulative skywave effects of the many stations involved. Until ratification procedures are completed, U.S. Class II stations on Mexican I–A clear channels continue to be precluded from presunrise operation. Ratification of the agreement by Mexico may be completed at an early date.

8. In light of these considerations, and our detailed analysis of the comments in these proceedings, as set forth in the Appendix, we have concluded that the presunrise usage of U.S. I–A clear channels by secondary daytime and limited-time stations in the United States should be balanced in line with the following principles:

(a) Presunrise operation by the 26 Class II daytime and limited-time station east of their Class I–A cochannel assignments to be proscribed, as it has been at least since the 1967 "presunrise" decision (Docket No. 14419, supra).[4] See Par. 46, et seq. of the Appendix.

(b) Presunrise operation by the 30 Class II daytime and limited-time stations west of Class I–A cochannel assignments to be allowed to commence at 6 a.m. local time[5] or sunrise at the dominant station, whichever occurs later.

(c) Power levels for permissible PSA operations—Par. 8(b), supra—to be determined by the following protection requirements:

(1) 500 watts (or licensed starting power, if less than 500 watts), or such lesser power as may be necessary to provide full treaty protection to foreign Class II unlimited time stations (if any) assigned to the same channel.

(2) Foreign interference to be calculated in accordance with applicable treaties. Domestic interference effects resulting from PSA power levels of 500 watts or less to be disregarded, because the protected contour is in fact collapsing from the moment of sunrise at the dominant station.

(d) Daytime or critical hours antenna system to be employed, as appropriate.

(e) PSA requests (if any) by Class II–A stations, and by other Class II fulltimers operating on U.S. I–A clear channels (KFMB, San Diego, and other stations in Hawaii, Alaska, and Puerto Rico), to be judged on a case-by-case basis in line with Par. 39 of the Appendix.

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[3] As described in §§ 73.21(a) and 73.182(a) of the rules, Class I "clear channel" stations are divided into two groups, Class I–A and Class I–B. Class I–B stations are protected at night to their 0.5 mv/m 50 percent skywave contours, against cochannel interference. Under the rules as they existed prior to 1961, the 25 Class I–A stations were generally the only stations in the continental United States operating on their channels (the 25 Class I–A channels) at night. U.S. stations outside the continental United States were limited to a skywave signal of no more than 0.025 mv/m (10 percent) into the continental United States. The present rules contain the same general protection standards, except that on 12 channels one additional fulltime assignment is provided for the western part of the United States (11 II–A assignments specified in § 73.22, plus a station on 760 kc/s at San Diego), protecting the 0.5 mv/m 50 percent skywave contour of the I–A station at night. Stations in other North American countries must similarly protect U.S. I–A service at night, under pertinent international agreements. Under the 1957 United States/Mexican Agreement there can be no Mexican stations on U.S. I–A channels at night (and vice versa), with specified exceptions, and under the North American Regional Broadcasting Agreement (NARBA) any such stations must be more than 650 miles from the nearest U.S. boundary and also meet the radiation limitation mentioned above.

[3] These figures do not include Station KCTA, Corpus Christi, Tex., whose presunrise operation is not involved herein because KCTA is licensed to sign on at sunrise Boston, the I–A location. They likewise do not include eastern Class II stations WOI, Ames, Iowa, and WNYC, New York City, whose operations during other than daytime hours are the subject of adjudicatory proceedings (Dockets 11227 and 11290). Stations KUOM, Minneapolis, and WCAL, Northfield, Minn., which share time on 770 kc/s, are counted as one station.

[3a] Filed as part of the original document.

[4] With the possible exception of WHO, Akron, Ohio, in view of the cochannel protection which would be offered to Class I–A, KFI, Los Angeles. This possibility will be further evaluated after a decision is reached on WOI's application for special service authorization for presunrise operation at Ames, Iowa, on 640 kc/s (Docket No. 11290).

[5] In lieu of "standard" time, as now specified in the note to § 73.99(b)(1) of the rules. This adjustment is consistent with the 6 a.m. "local" PSA starting hour for Class III stations, and Class II stations on I–B clear channels, achieved in the first report and order in Docket No. 18023, 14 FCC 2d 393 (1968). The need for this adjustment has become increasingly apparent since the passage of the Uniform Time Act of 1966, under which a 1-hour April–October time advancement is generally observed throughout the nation.

(f) As in the case of other PSA's, authorizations issued under the Rules herein adopted to be subject to suspension, modification or withdrawal without prior notice or right to hearing, if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action, including further developments with respect to 770 kc/s presently under consideration in Docket No. 6741.

9. Under the formula set forth in paragraph 8(c), above, daytime-only and limited-time Class II stations west of the cochannel I–A station will be limited to 500 watts power, or 250 watts if that is their authorized daytime power. The 250-watt limit will apply to Stations KIKK, Pasadena, Tex. (650 kc/s), KSEO, Durant, Okla. (750 kc/s), KSPI, Stillwater, Okla. (780 kc/s), KJIM, Fort Worth, Tex. (870 kc/s), KCLE, Cleburne, Tex. (1120 kc/s) and WAVI, Dayton, Ohio Ohio (1210 kc/s).

10. In the notice of proposed rule making which initiated one of the above-captioned proceedings (Docket No. 17562, FCC 67–768), as well as in the report and order in Docket No. 14419, supra, we expressed the tentative view that Class II daytime and limited-time stations operating on U.S. I–A clear channels should be subject to the same power limitation (500 watts) as are PSA holders generally. The reasons underlying this view were that it is undesirable to permit one group of PSA holders to operate at higher power than others, and that a general limitation of 500 watts would effectively control early morning skywave interference on the U.S. I–A clear channels. For the reasons stated in the Appendix hereto, we feel that the general 500-watt PSA power ceiling has continuing validity, particularly in view of the fact that the United States-Mexican "Pre-sunrise" argeement, when it becomes effective, will make the 500-watt ceiling mandatory across the board. We note in passing that the settlement reached herein is more lenient than the international settlement reached in the Mexican negotiations, since Class II skywave effects at PSA power levels of 500 watts and less are ignored in evaluating domcstic interference. On this basis, we do not believe that we are jeopardizing the integrity of the U.S. I–A clear channel services.

11. Further revision of § 73.99 of the rules will, of course, become necessary upon ratification of the United States-Mexican "Presunrise" agreement and its entry into force. In the meantime, the decisions reached in the above-captioned proceedings may be carried out simply by deleting of the present note to § 73.99(b)(1).

12. Authority for the adoption of this report and order is contained in sections 4(i), 303(c), 303(e), 303(r), and 307(b) of the Communications Act of 1934, as amended. The change concerning 6 a.m. local time is a relaxation of an existing restriction on presunrise operation, which otherwise would affect numerous stations starting August 1; therefore it is appropriate to make this change in the rules effective immediately (see 5 U.S.C. 553).

13. *Accordingly, it is ordered,* That effective August 1, 1969, the note to § 73.99(b)(1) of the rules is deleted.

14. *It is further ordered,* That notwithstanding the above effective date, operations currently conducted under said note may be continued through September 14, 1969, but with sign-on times adjusted to 6 a.m. local time (or sunrise at the dominant station, whichever is later). After September 14, 1969, presunrise operations shall be conducted only pursuant to a PSA.

15. *It is further ordered,* That to expedite the grant of PSA's to stations affected by these proceedings, the Commission will accept and act on letter requests by eligible Class II daytime and limited-time stations, specifying the power of 500 watts (or licensed facilities, if less) without the interference calculations otherwise required by § 73.99 of the rules. Such requests shall, however, contain a description of the method whereby any proposed power reduction will be achieved, and should be filed no later than September 1, 1969.

16. *It is further ordered,* That the waiver request filed August 31, 1967, by Radio Akron, Inc., licensee of Radio Station WHLO, Akron, Ohio, is dismissed without prejudice to possible resubmission upon conclusion of proceedings in Dockets Nos. 11290 and 16298.

17. *It is further ordered,* That the petition for review and final action filed June 30, 1965, the request for immediate action on pending complaint or alternative relief filed October 26, 1967, and all supplementary and related complaints and pleadings filed by Columbia Broadcasting System, Inc. (WCBS, New York), in connection with the presunrise operations of Radio Station WRFD, Worthington-Columbus, Ohio, are dismissed as moot.

18. *It is further ordered,* That motions filed by Storer Broadcasting Co. (KGBS), Frances Maye Barnett et al. (KSWS), Cornell University (WHCU), and Loyola University (WWL) for acceptance of late or additional comments in Dockets Nos. 17562 and 18036, are granted; and the motion to strike filed February 27, 1968, by Plough Broadcasting Co. (WJJD) is denied to the extent that additional comments filed on behalf of Radio Station KSL have been considered, and in all other respects is granted.

19. *It is further ordered,* That proceedings in Dockets Nos. 17562, 18023, and 18036 are terminated.

(Secs. 4, 303, 307, 48 Stat. as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-9150; Filed, Aug. 4, 1969; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Waubay National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

WAUBAY NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Waubay National Wildlife Refuge, S. Dak., is permitted from November 29, 1969, through December 7, 1969, only on the area designated by signs as open to hunting. This area, comprising 4,591 acres, is delineated on a map available at refuge headquarters, Waubay, S. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 7, 1969.

ROBERT R. JOHNSON,
Refuge Manager, Waubay National Wildlife Refuge, Waubay, S. Dak.

JULY 29, 1969.

[F.R. Doc. 69-9121; Filed, Aug. 4, 1969; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 32, 33]

HUNTING AND FISHING ON CERTAIN REFUGES

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.11, 32.21, 32.31, and 33.4 by the addition of Browns Park National Wildlife Refuge, Colo., to the list of areas open to the hunting of migratory game birds; Browns Park National Wildlife Refuge, Colo., and UL Bend National Wildlife Refuge, Mont., to the list of areas open to the hunting of upland game; Holla Bend National Wildlife Refuge, Ark., Bitter Lake National Wildlife Refuge, N. Mex., and UL Bend National Wildlife Refuge, Mont., to the list of areas open to the hunting of big game; and UL Bend National Wildlife Refuge, Mont., to the list of areas open to sport fishing.

It has been determined that the regulated hunting of upland game, big game, and migratory game birds, and sport fishing may be permitted as designated on the above refuges without detriment to the objectives for which the areas were established.

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 the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

COLORADO

Browns Park National Wildlife Refuge.

* * * * *

2. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

COLORADO

Browns Park National Wildlife Refuge.

* * * * *

MONTANA

UL Bend National Wildlife Refuge.

* * * * *

3. Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

* * * * *

ARKANSAS

Holla Bend National Wildlife Refuge.

* * * * *

MONTANA

UL Bend National Wildlife Refuge.

* * * * *

NEW MEXICO

Bitter Lake National Wildlife Refuge.

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4. Section 33.4 is amended by the following addition:

§ 33.4 List of open areas; sport fishing.

* * * * *

MONTANA

UL Bend National Wildlife Refuge.

* * * * *

ABRAM V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JULY 30, 1969.

[F.R. Doc. 69-9144; Filed, Aug. 4, 1969; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1001, 1002, 1003, 1004, 1015, 1016]

[Docket Nos. AO-14-A46 et al.]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Part	Marketing area	Docket No.
1001	Massachusetts-Rhode Island-New Hampshire.	AO-14-A46.
1002	New York-New Jersey	AO-71-A58.
1003	Washington, D.C.	AO-293-A22.
1004	Delaware Valley	AO-160-A42.
1015	Connecticut	AO-305-A23.
1016	Upper Chesapeake Bay	AO-312-A19.

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), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in each of the marketing areas heretofore specified.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th 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)).

Preliminary Statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, as amended, were formulated, was conducted at New York, N.Y., on June 16-17, 1969, pursuant to notice thereof which was issued on May 28 and June 4, 1969 (34 F.R. 8709; 9035).

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

1. Modification of the specified Class I price under each of the respective orders to continue the existing interregional price alignment;

2. Modification of the butterfat differentials under the respective orders; and

3. An increase in the maximum allowable rate of payment for expense of administration under the New York-New Jersey order.

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. *Modification of the specified Class I price under each order.* The Class I pricing provisions under the Massachusetts-Rhode Island-New Hampshire, New York-New Jersey, Delaware Valley, and Connecticut orders should be modified to provide that the Class I price for the month shall be the specified price under each such order plus any amount by which the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the preceding month, on a 3.5 percent butterfat basis, exceeds $4.33. In addition, all of the language of the inactivated economic formula under each such order should be deleted.

Because the Class I price under both the Upper Chesapeake Bay and Washington, D.C., orders is established by a specified adjustment of the Delaware Valley Class I price, no change is needed in these two orders to accomplish the end here determined appropriate.

The New York-New England Cooperative Coordinating Committee, representing 18 of the principal cooperatives with membership among producers supplying the New York-New Jersey and/or New England Federal order markets, proposed that the Class I price under each of the six northeastern Federal orders be "floored" in its relationship with the effective Class I price under the Chicago Regional order. The proposal had as its purpose to continue the precise interregional Class I price alignment established by the Department in general price actions taken under all orders on January 1 this year and during the previous 3 years in an effort to halt declining milk production nationally. Pennmarva Dairymen's Cooperative Federation, Inc., the member cooperatives of which represent producers primarily associated with the Delaware Valley, Upper Chesapeake Bay and Washington, D.C., markets, proposed further that, for such markets only, the intent of the Coordinating Committee's proposal be implemented through a bracketing scheme whereby the presently specified Class I prices would be adjusted in 20-cent increments to reflect increases in the Minnesota-Wisconsin pay price above $4.33 (3.5 percent butterfat basis).

Milk production has been declining throughout the country since early 1965. In an effort to stabilize production, the Department in the interim period has taken a number of price actions on a national basis both under the Federal order and price support programs. The most recent of such actions with respect to Federal orders were taken September 15, 1968, and January 1, 1969.

Official notice is taken of the decision of the Acting Secretary issued on September 6, 1968 (33 F.R. 12849) increasing the specified Class I prices under the northeastern orders by 24 cents. It was there found "* * * Such action is necessary to effect price increases to producers under the northeastern orders comparable with price increases effected under orders in the North Central region generally on July 1 and thus restore the interregional price alignment which has been maintained through the several emergency Class I price actions which have been initiated on a national basis during the past several years in an effort to stem the decline in milk production nationally.

"Federal milk orders outside the Northeast employ manufacturing milk values as a basic price to which a specified differential is added to arrive at the Class I price. The differential varies as between markets to the end that the variation in price as between markets generally reflects the difference in transportation costs in moving milk from the Minnesota-Wisconsin alternative supply area. The northeastern orders, on the other hand, have over an extended period of years employed economic type pricing formulas for the purpose of establishing Class I prices.

"Milk production in the United States has been declining since 1965. This decline in production has reflected an accelerated decline in the number of dairy farmers and dairy cattle and is attributable to factors such as high prices for cull cattle, better returns from alternative farm enterprises, more attractive off-farm opportunities for labor, increased costs of farm labor and equipment, and increased taxes and interest rates.

"In an effort to stem the downward trend in milk production, the Department has taken a series of price actions during the period 1966, 1967, and 1968, under both the dairy price support program and the Federal milk order program. However, the changes in price support levels, flooring of the basic (manufacturing milk) price and/or specified changes in the differentials over the basic price, which procedures have been employed to raise Class I prices generally under Federal orders outside the Northeast, have not been applicable under the northeastern orders. In an effort to extend identical price adjustments to the northeastern markets, the Department initially "floored" certain of the factors in the respective formulas above their then current levels and in subsequent acts inactivated the formulas entirely in favor of specified prices * * *."

Official notice is also taken of the termination order issued by the Under Secretary on December 26, 1968, removing the "April 1969" termination date of the applicable Class I pricing provisions in all Federal orders.

It was there found with respect to each of the orders that "The termination order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area. Dairy farmers need assurance now that their income will be maintained so that they can plan their dairy operations. These actions also will assure an adequate [milk] supply for consumers.

"The termination order will continue indefinitely certain Class I pricing provisions now due to expire April 30, 1969."

Official notice is taken of the publication "Milk Production" issued by the U.S. Department of Agriculture, Statistical Reporting Service, for the months of May and June 1969. Milk production nationally in the first 6 months of 1969 declined 1.2 billion pounds and was 1.9 percent below the corresponding period of 1968. This compares with a production decline of 1.1 billion pounds for the year 1967 and 1.5 billion pounds for the year 1968, 1 and 1.3 percent, respectively.

For the first 6 months of 1969, milk production in the 12 northeastern States from Maine through Virginia, which constitute the milkshed for the six northeastern markets, totaled 13.2 billion pounds, about one-half percent below production of the same period of 1968. Milk production in these States in 1967 was 1.4 percent below that of 1966, and in 1968 was 2.2 percent below that of 1967.

While the decline in milk production in the Northeast appears to have slowed in relation to the rate of decline in production nationally, it is still too early to conclude that the critical production situation in this area has been abated. The Northeast is a most important area of milk production. More than 32 percent of all the milk marketed under Federal orders is associated with the six markets here under consideration. Similarly, almost 34 percent of all producers whose milk is priced under Federal regulation are associated with these markets.

Under the existing fixed prices, producers in the northeastern markets have received none of the Class I price increase which producers in all regulated markets outside of the Northeast have realized by virtue of the recent advancement of the Minnesota-Wisconsin pay price above the $4.33 floor. The increases in purchase prices for butter and Cheddar cheese under the price support program made effective April 1 and 2, 1969, to return the price for milkfat in farm-separated cream to the required 75 percent level, while not changing the general level of the support price for manufacturing grade milk, have been a factor in the increases in manufactured milk pay prices as reflected in the Minnesota-Wisconsin pay price series.

In April, the Minnesota-Wisconsin pay price (3.5 percent butterfat basis) increased to $4.34, 1 cent above the $4.33 floor specified in the basic formula price provided in all Federal orders outside the Northeast. This resulted in a 1 cent increase in the May Class I price for all markets outside the Northeast. Similarly, a further increase of 3 cents in the Minnesota-Wisconsin pay price in the month of May increased the June Class I price in all markets outside the Northeast by 4 cents in their relationship with northeastern prices. Official notice is taken of the $4.39 June Minnesota-Wisconsin pay price as announced by the Department (6 cents above the $4.33 floor). This increased price has further deteriorated the previously established interregional price relationship with the markets outside the northeast.

It is not clear at this time what further increases in the Minnesota-Wisconsin pay price may occur through the remainder of the marketing year. It is not necessary, however, for purposes of this decision, to know precisely what level the Minnesota-Wisconsin pay price might ultimately reach. Similar price increases to those being experienced by producers in Federal order markets outside the Northeast for the months of May, June, and July would have enhanced producers' returns in the six markets by almost a million dollars. Even if there were no further increases in manufacturing milk values, the total loss of income to northeastern producers for the remainder of the marketing year, for any lack of action on the basis of this record, would be extremely high.

If the general level of milk production is to be maintained, it is essential that dairy farmers in the Northeast continue to have assurance that their price will be increased to the same extent as that of dairy farmers outside the Northeast. The continuing spiral in production costs, the critical labor situation, and the attractive alternative job opportunities available to northeastern dairy farmers make the proposed price increase appropriate at this time to maintain the confidence of northeastern dairymen in dairying.

To accomplish this, the orders should be amended to provide that the specified Class I prices in each order be increased each month by any amount by which the Minnesota-Wisconsin pay price, as reported by the Department on a 3.5 percent butterfat basis, for the preceding month, exceeded $4.33.

While Pennmarva Federation proposed that any price increases be accomplished through a bracketing scheme, such a procedure cannot accommodate the end here sought. The level of the Minnesota-Wisconsin pay price cannot at this time be reliably forecast either with respect to its ultimate level or on a month-to-month basis. We know of no method of bracketing which could achieve the objective of providing the same increase each month in the Northeast as applies in other markets.

The order prices in all markets outside the Northeast adjust each month to reflect the precise change in the Minnesota-Wisconsin pay price above $4.33. If interregional price alignment is to be maintained, the same procedure appropriately must apply under the northeastern orders. The purpose of the price change in northeastern markets is not different from that in other regulated markets over the nation. It is intended that producers in all markets receive similar treatment in consideration of the overall objective and the method adopted is best designed to achieve this objective. The proposal for the adoption of a bracketing scheme at this time therefore is denied.

The structure of the Class I pricing provisions as contained in the Massachusetts-Rhode Island-New Hampshire and Connecticut orders is such that one not intimately familiar with the details of the order is required to read through and assimilate very lengthy provisions only to find at the end that the several provisions of the pricing formula have no current application and that the effective price is, in fact, a specified price. It is desirable to simplify such provisions for better public understanding.

In this regard also attention is called to the June 25, 1968, decision of the Under Secretary denying a New York-New England Cooperative Coordinating Committee request for the adoption of a common Class I economic formula and providing for a 10-cent upward adjustment of the specified New York-New Jersey Class I price to provide more appropriate alignment with the Class I price in the New England Federal order markets. Among other things, the Under Secretary concluded in such decision, official notice of which is taken: "Clearly a return to formula pricing at this time could not serve the interest of either producers or consumers to the degree that the present fixed prices afford * * *

"* * * Contrary to proponents' position, the present basis of fixed pricing is the best way of implementing market stability in this period of great uncertainty with respect to future production and consumption trends. Appropriately, the matter of a pricing formula should be reconsidered at a future hearing after marketing conditions have stabilized sufficient to permit a longer range decision than is now possible." Such formulas could not appropriately be reactivated in existing form.

While such decision related to the Massachusetts-Rhode Island-New Hampshire, Connecticut, and New York-New Jersey markets in particular, the obvious need for maintaining price alignment throughout the Northeast would dictate reconsideration of the Delaware Valley formula in the event any revised formula were developed for the former markets. Consequently, the Delaware Valley economic formula is not necessary at this time.

In light of the above, the present provisions setting forth the details of a pricing formula in the respective orders serve no useful purpose and, in fact, impede clear understanding of the present pricing scheme. Accordingly, the now obsolete language of the respective inactivated pricing formulas should be deleted.

2. *Modification of Butterfat Differentials.* The provisions of the six northeastern orders should be modified to provide producer and handler (where applicable) butterfat differentials computed on the basis of the average daily wholesale selling price of butter in the New York City market, as reported by the Department for the period from the 16th day of the preceding month through the 15th day of the current month, multiplied by 0.115, and rounded to the nearest even one-tenth cent.

The two New England orders and the New York-New Jersey order each provide only a producer butterfat differential. Under these orders, differential butterfat in Class I or Class II has identical value and, hence, it is unnecessary to equalize the value of differential butterfat through the pool. Handlers account to the pool for each hundredweight of milk received in accordance with its use as either Class I or Class II at the announced class prices without adjustment for butterfat content. In making payment to each producer, the applicable blended price is adjusted by the butterfat differential to reflect the value of milk at the test received from such producer. Under each of these orders, the butterfat differential is based on the identical butter price herein proposed for use under each of the six orders. Such price, however, currently is multiplied by 0.120 and rounded to the nearest even one-tenth cent under Order 2, and to the nearest one-tenth cent under Orders 1 and 15.

Thus, while the three orders employ the same butter price for computing a butterfat differential, the procedure of rounding the resulting price can and does result at times in different butterfat differentials and, hence, a different cost to handlers as between the markets for skim milk and butterfat, respectively.

Because the other three orders (Delaware Valley, Upper Chesapeake Bay and Washington, D.C.) provide different butterfat values for Class I milk as compared to Class II milk, the value of differential butterfat must be equalized through the pool. Each order provides for the computation of a Class I butterfat differential based on the Philadelphia cream price with provision that the resulting value be not less than the Class II differential (computed in an identical manner as the producer butterfat differential under Orders 1 and 15). The procedure for such computation varies, however, to the end that there can be a difference of more than one-half cent in the differential as between Delaware Valley and Upper Chesapeake Bay or Washington, D.C.

With respect to the producer butterfat differential, both Upper Chesapeake Bay and Washington, D.C., provide for a weighted average of the Class I and Class II differentials rounded to the nearest cent, while Delaware Valley uses the Class I differential rounded to the nearest cent.

Proponents pointed out that the varying differentials as among the orders create a variety of values for skim milk and butterfat among the markets despite the fact that class prices are generally aligned for milk of 3.5 percent test. Hence, handler costs as between orders are different despite the fact that the basic prices are essentially the same. They held that true price alignment could be achieved only if the butterfat differential as between the orders were the same.

Proponents further suggested that the increased mobility of milk and dairy products makes it necessary that price alignment be maintained not only as between markets in the Northeast but also with markets in other regions. To this end, they proposed the use of the Chicago butter price as a basis of computing butterfat differentials, pointing out that most other markets under regulation use this price in computing their butterfat differentials.

In further support of their proposal, proponents pointed out that under the present differentials, handler costs for butterfat are, in fact, greater than the value of the resulting butter which can be produced. A lowering of the butterfat differential in the manner proposed would result in a more equitable pricing for both butterfat and skim milk.

Notwithstanding proponents' general position, it is not possible to fully achieve the end they seek. In most regulated markets the Class I butterfat differentials are based on the preceding month's butter values and the Class II differentials are based on the current month's butter values. This procedure reflects handlers' desire to know as early as possible in the month their cost for Class I milk, on the one hand, and the need to have Class II milk priced in relation to the current milk product values, on the other. Because Orders 1, 2, and 15 do not equalize differential butterfat through the pool, it is not possible to fully achieve this end.

Although proponents generally agreed on the overall proposal, the Order 1 members of the Coordinating Committee were quite positive in their view that the applicable butterfat differential under

Order 1 must be known by the 26th day of the month in order that advance payment to producers can be completed on schedule. To accommodate this end, it was proposed that, for Order 1 only, the butterfat differential be computed on the basis of daily butter prices from the 26th day of the preceding month through the 25th day of the current month.

Pennmarva Federation also asked for a modification of the Coordinating Committee's proposal in that they supported a rounding of the producer butterfat differential to the nearest even one-tenth cent. This, they held, was necessary in order to accommodate payment through their present computer equipment.

At the present time, the Chicago butter price is reported by the Department on a monthly basis. The New York butter price, on the other hand, is reported for the period from the 16th day of the preceding month to the 15th day of the current month. Because butter prices normally approximate the announced support purchase prices, it does not appear necessary at this time to develop a new reporting series to accommodate the calculation of a butterfat differential under Order 1. The end proponents seek can be achieved in large measure by the use of the same butter value now used in the computation of the present differentials under Orders 1, 2, and 15. A lowering of the factor from 120 to 115 will provide more appropriate butterfat and skim milk values. In addition, the rounding of the differential to the nearest even one-tenth cent will accommodate the problems of checkwriting under Orders, 3, 4 and 16. With these modifications, proponents' proposal should be adopted as a means of providing better price alignment as among the orders here under consideration and with order prices in other regions.

3. *Expense of Administration.* The maximum allowable rate of expense of administration under Order 2 should be increased to 4 cents. Such payment should continue to be applicable to the total quantity of pool milk received by the handler from dairy farmers at plants or from farms in a unit operated by the handler directly or at the instance of a cooperative association of producers.

The Act requires that handlers shall pay the cost of operating an order through an assessment on milk handled. The present maximum allowable rate of payment of 2 cents per hundredweight has not provided sufficient funds in the last several years to cover the administrative expenses necessarily incurred by the market administrator and, in addition, to maintain a reasonable operating reserve.

Experience in the operation of Federal orders generally has shown the need for maintaining an operating balance in the administrative fund sufficient to cover about 9 months' normal expenses. This reflects 6 months' operating costs which is the approximate time which would be required to complete audits and close out the office in the event the order should be withdrawn or terminated. The remainder of the balance in such circumstances would be needed for severance pay for the employees involved.

For each of the years between 1961 and 1967, the operating balance at the beginning of the year was equivalent to between 8.9 and 9.8 months' average expenditure during the year. In 1968 the operating balance at the beginning of the year provided less than 8 months' cost of operation for the year and at this time is below 6 months' estimated cost.

Beginning in 1966, actual expenditures have exceeded income each year. The estimated expenditures for the current year exceed estimated income by $545,000. This is more than double the amount by which expenses exceeded income in 1968.

While handlers expressed concern at the proposal to double the allowable rate of payment, it must be recognized that the rate here being established is a maximum rate only. The actual rate will be set at such lesser rate as is estimated necessary to cover expenses and maintain the reserve to an estimated 9 months' operating cost. It is the policy of the Department to expend only those funds prudently necessary to properly administer the order. If at any time the reserve fund should exceed that deemed necessary, the effective rate would, of course, be reduced.

Other order changes not specifically discussed in this decision remove obsolete language or are conforming changes necessary to accommodate the announcement by the market administrator of prices in accordance with the conclusions hereinbefore set forth.

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 carefully considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties were inconsistent with the findings and conclusions set forth herein, the request 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 each of the aforesaid orders 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. The following findings are hereby made with respect to each of the aforesaid orders:

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreements and the orders, 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 Orders

The following order amending the orders as amended regulating the handling of milk in the specified marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. 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:

PART 1001—MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

1. In § 1001.32, paragraph (j) is revised to read as follows:

§ 1001.32 Duties.

* * * * *

(j) He shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate):

(1) By the 5th day of the month:

(i) The Class I price for the current month;

(ii) The Class II price for the preceding month, as computed under § 1001.61;

(2) By the 13th day of each month, the zone blended prices resulting from the adjustment of the basic blended price for the preceding month, as computed under § 1001.65, by the zone differentials contained in § 1001.62(d);

(3) By the 25th day of each month the butterfat differential computed pursuant to § 1001.71(b); and

(4) Whenever required for purpose of assigning receipts from other Federal order plants under § 1001.56(b), his estimate of the utilization (to the nearest whole percentage) in each class during the month of butterfat and skim milk, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

2. Section 1001.60 is revised to read as follows:

§ 1001.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, for the month, at plants located in zone 21, shall be $6.91 plus any amount by which the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the preceding month, on a 3.5 percent butterfat basis, exceeds $4.33.

3. Section 1001.66 is revised to read as follows:

§ 1001.66 Factors used in formulas.

If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the price which is specified.

4. In § 1001.71, paragraph (b) is revised to read as follows:

§ 1001.71 Butterfat differential.

* * * * *

(b) Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the U.S. Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. In § 1002.22, paragraph (m) is revised to read as follows:

§ 1002.22 Duties.

* * * * *

(m) On or before the date specified, or the next succeeding work day in any month in which such date is a Sunday or holiday, publicly announce the following:

(1) The 5th day of each month:

(i) The Class I price for the current month and the Class II price for the preceding month computed pursuant to § 1002.50, both as applicable at the 201–210-mile zone and at the 1–10-mile zone;

(ii) The butterfat differential for the preceding month computed pursuant to § 1002.81;

(iii) The simple average of the daily wholesale selling price per pound (using the midpoint of any price range as one price) reported by the U.S. Department of Agriculture for Grade A or 92-score bulk creamery butter in New York City for the period between the 16th day of the second preceding month and the 15th day inclusive of the preceding month;

(iv) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the preceding month;

(v) The simple average of the daily wholesale selling prices (using the midpoint of any price range as one price of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S. Department of Agriculture for the preceding month.

(vi) The weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the U.S. Department of Agriculture for the period from the 26th day of the second preceding month through the 25th day of the preceding month.

(2) The 15th day of each month, the uniform price for the preceding month pursuant to § 1002.71 applicable at the 201–210-mile zone and at the 1–10-mile zone pursuant to § 1002.82.

2. In § 1002.50, paragraph (b) is revoked and the designation "(b)" is reserved for future assignment; paragraph (a) is revised; and the remaining paragraphs are unchanged. Section 1002.50, as revised, reads as follows:

§ 1002.50 Class prices.

* * * * *

(a) For Class I–A milk the price each month shall be $6.73 plus any amount by which the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the preceding month, on a 3.5 percent butterfat basis, exceeds $4.33.

(b) [Reserved]

* * * * *

§ 1002.81 [Amended]

3. The provision "0.120" as it appears in § 1002.81 is revoked and the provision "0.115" is substituted thereat.

§ 1002.90 [Amended]

4. The provision "2 cents" as it appears in § 1002.90 is revoked and the provision "4 cents" is substituted thereat.

PART 1003—MILK IN WASHINGTON, D.C., MARKETING AREA

1. Section 1003.51 is revised to read as follows:

§ 1003.51 Butterfat differential to handlers.

For milk containing more or less than 3.5 percent butterfat, the applicable class price pursuant to § 1003.50 shall be increased or decreased, respectively, for each one-tenth of 1 percent butterfat by a butterfat differential computed as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the U.S. Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

2. Section 1003.81 is revised to read as follows:

§ 1003.81 Producer butterfat differential.

In making payments pursuant to § 1003.80 (a) or (b) the uniform price shall be adjusted for each one-tenth of 1 percent of butterfat content in the milk of each producer above or below 3.5 percent, as the case may be, by a butterfat differential as computed pursuant to § 1003.51.

PART 1004—MILK IN DELAWARE VALLEY MARKETING AREA

1. In § 1004.22, paragraph (j) is revised to read as follows:

§ 1004.22 Duties.

* * * * *

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The 5th day of each month:

(i) The Class I price for the current month computed pursuant to § 1004.50 (a);

(ii) The Class II price computed pursuant to § 1004.50(b) and the handler butterfat differential computed pursuant to § 1004.51, both for the preceding month;

(2) The 13th day of each month, the uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 and the butterfat differential to producers computed pursuant to § 1004.81, both for the preceding month.

2. In § 1004.50, paragraph (a) is revised to read as follows:

§ 1004.50 Class prices.

* * * * *

(a) *Class I milk.* The price per hundredweight of Class I milk shall be $7.17 plus any amount by which the average price per hundredweight for manufacturing Grade A milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the preceding month on a 3.5 percent butterfat basis, exceeds $4.33.

3. Section 1004.51 is revised to read as follows:

§ 1004.51 Butterfat differential to handlers.

For milk containing more or less than 3.5 percent butterfat, the applicable class price pursuant to § 1004.50 shall be increased or decreased, respectively, for each one-tenth of a percent butterfat by a butterfat differential computed as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling price per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the U.S. Department of Agriculture for

Grade A (92-score) bulk creamery butter in the New York City market.

4. Section 1004.81 is revised to read as follows:

§ 1004.81 Butterfat differential to producers.

The uniform price to each producer shall be increased or decreased for each one-tenth of 1 percent by which the average butterfat content of his milk is above or below 3.5 percent, respectively, by the butterfat differential computed pursuant to § 1004.51.

PART 1015—MILK IN CONNECTICUT MARKETING AREA

1. In § 1015.32, paragraph (g) is revised to read as follows:

§ 1015.32 Duties.

* * * * *

(g) He shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate):

(1) By the 5th day of the month:

(i) The Class I price for the current month;

(ii) The Class II price and butterfat differential for the preceding month, as computed under §§ 1015.61 and 1015.71, respectively;

(2) By the 14th day of each month the basic uniform price for the preceding month computed under § 1015.64 and the zone uniform prices resulting from the adjustment of the basic uniform price by the zone price differentials under § 1015.62; and

(3) Whenever required for purpose of assigning receipts from other Federal order plants pursuant to § 1015.55(c)(2), his estimate of the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

2. Section 1015.60 is revised to read as follows:

§ 1015.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, for the month, at plants located in the nearby plant zone under § 1015.62, shall be $7.31 plus any amount by which the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the preceding month on a 3.5 percent butterfat basis, exceeds $4.33.

3. Section 1015.65 is revised to read as follows:

§ 1015.65 Factors used in formulas.

If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the price which is specified.

4. Section 1015.71 is revised to read as follows:

§ 1015.71 Butterfat differential.

In making the payments to producers and cooperative associations required under § 1015.70 or for overages under § 1015.63(d), each handler shall add or subtract for each one-tenth of 1 percent that the average butterfat content of milk received from producers or the overage is above or below 3.5 percent, respectively, an amount per hundredweight which shall be computed by the market administrator as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the U.S. Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

PART 1016—MILK IN UPPER CHESAPEAKE BAY (MARYLAND) MARKETING AREA

1. Section 1016.51 is revised to read as follows:

§ 1016.51 Butterfat differential to handlers.

For milk containing more or less than 3.5 percent butterfat, the applicable class prices pursuant to § 1016.50 shall be increased or decreased, respectively, for each one-tenth of 1 percent butterfat by a butterfat differential computed as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling price per pound (using the midpoint of any price range as one price), reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

2. Section 1016.81 is revised to read as follows:

§ 1016.81 Producer butterfat differential.

In making payments pursuant to § 1016.80 (a) or (b) the uniform prices shall be adjusted for each one-tenth of 1 percent of butterfat content in the milk of each producer above or below 3.5 percent, as the case may be, by a butterfat differential as computed pursuant to § 1016.51.

Signed at Washington, D.C., on August 1, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-9200; Filed, Aug. 4, 1969; 8:49 a.m.]

[7 CFR Part 1103]

[Docket No. AO-346-A10]

MILK IN THE MISSISSIPPI MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 Mississippi 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)).

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 Jackson, Miss., on March 25 and 26, 1969, pursuant to notice thereof which was issued March 5, 1969 (34 F.R. 5020).

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

1. Whether the Mississippi counties of George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone should be included in the marketing area.

2. What location adjustments should apply to class prices and uniform prices at plants in the counties proposed to be added to the marketing area.

3. What conditions should apply for diversion of a producer's milk in the months of December through August.

4. Conforming changes in order provisions.

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.* The Mississippi counties of George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone should be added to the regulated area.

The seven Mississippi counties proposed for regulation comprise the area from the Gulf Coast northward to the main portion of the area now regulated. On the Gulf Coast the regulation now applies only to Keesler Air Force Base in Harrison County.

The proposal for the new area was made by Dairymen, Inc., a cooperative whose members comprise about 85 percent of the producers supplying handlers in the present Mississippi market. Proponent cooperative contended that the area is closely linked to the present marketing area in that it depends on essentially the same suppliers. The claimed relationship was based mainly on two grounds: (1) That the majority of the milk sold in the seven counties is Mississippi order milk, and (2) non-Federal order handlers with plants located in Alabama who sell in the proposed area rely significantly on Order No. 103 milk for supplemental supplies. It was alleged that lack of Federal order regulation on some handlers selling in the area threatens marketing stability for producer milk.

Order No. 103 handlers' route sales represent about 56 percent of all milk consumed in the proposed area (other than Keesler Air Force Base, which is already under the regulation). The Borden Co. plant at Biloxi and the Bush Dairy Co. at Laurel are the two Mississippi order plants with significant sales in the area. The remainder is supplied largely by two non-Federal order plants located at Prichard and Mobile, Ala., which together account for 42 percent of the total. Two percent of the sales in the proposed area is from New Orleans order plants.

Estimated milk consumption in the area proposed is computed to be 4.2 million pounds monthly, based on a per capita consumption of 185 pounds annually and 1968 population approximating 273,000 persons. Handlers not regulated by Federal orders indicated monthly route sales of 1.75 million pounds in the seven counties. This quantity is the 42 percent of total sales previously described as made by non-Federal order handlers.

The percentage of sales in each county by Order No. 103 handlers was estimated by the proponent cooperative to be from 51 to 95 percent based on a recent sales survey. The average of these percentages, weighted by population in each county, is 57.5 percent. The two estimates of sales by Order No. 103 handlers agree closely. If shipments of Mississippi order milk made to one of the non-Federal order handlers selling in the seven counties are included the proportion increases to 67 percent. The latter quantity, about 400,000 pounds monthly, shipped to the Barber Pure Milk Co. at Mobile, approximates the quantity of fluid sales from the plant into the Mississippi counties at issue here.

The extension of regulation is needed to assure that the returns of producers determined under the order's provisions will not be adversely affected by the presence of milk not subject to the order in an area where such producers, and the handlers to whom they deliver, are the majority suppliers. Order No. 103 handlers have the majority of sales in each of the counties proposed to be added, but there are large volumes of milk sold throughout the proposed counties by handlers not regulated by any Federal order. There is, therefore, extensive competition throughout the area of milk federally regulated and milk not so regulated.

In these circumstances the integrity of the uniform price plan of the order and its objective of maintaining orderly marketing for producers cannot be adequately assured unless the order is made applicable to all milk sold in these counties. Without inclusion of the seven counties only Order No. 103 handlers would be subject to the order's classified pricing and accounting system while competing handlers would remain free to obtain their supplies on a substantially different pricing basis with significant advantage in competing for the market.

The two Alabama plants involved in the subject counties are affected by a pricing regulation of the State of Alabama. The State regulation lacks, however, features contained in the Federal order which are necessary to assure the needed uniformity of pricing among handlers competing in such counties.

The Alabama regulation is necessarily limited in scope because its authority applies only within the State. The regulation cannot require specific prices to be paid on milk supplies procured from dairy farmers or plants beyond the State's boundaries. Its main concern is with the prices required to be paid by Alabama handlers to producers in Alabama. After such milk is accounted for at State order prices and classification, the handler is free to purchase other milk or milk products for Class I use without minimum price requirement. Prices computed for out-of-State producers are simply recommended or suggested prices. Consequently, such regulation does not require complete accountability and pricing for all milk and milk products handled from whatever source. Further, the Alabama regulation provides special prices for sales to military bases or schools which are lower than the regular Class I prices.

By contrast, the Federal order provides, among other things: (1) Complete accounting for all receipts and disposition by each handler; (2) a single minimum Class I price for fluid disposition to all outlets, whether civilian or military; (3) a specific limit on the quantity of shrinkage which a handler may claim at the surplus price; and (4) payments by the handler on any use of other source (nonproducer) milk for Class I disposition.

The Prichard and Mobile plants in particular do not receive their supplies entirely from Alabama producers. One receives milk from 40 producers in Mississippi. Other supplies are at times procured by both plants from other plant sources outside the State. No minimum prices are required under the regulatory authority for out-of-State purchases. Further, it is not required that all of the plant utilization of milk and milk products be accounted for. Under these circumstances, there can be no assurance that these non-Federal order distributors will not have a purchase advantage in the seven counties over handlers fully regulated by the Mississippi order who sell there.

Representatives of the Prichard and Mobile plants opposed the area extension. Specifically, they objected that by imposing the regulation on the 20 percent of their sales in the proposed area, the other 80 percent not in Federal order territory also would be regulated. This circumstance, they said, would complicate their procurement of dairy farm supplies in Alabama which is an area of relatively short production. They were particularly concerned that their dairy farmers would receive lower returns if such plant were fully regulated and consequently would seek other plant outlets.

The area extension also was opposed by a cooperative which has members shipping to one of the Alabama handlers. The reason given was that lower blend prices for members would be expected under the order than are now received from the Alabama handler. The latter farmers now receive payments under a voluntary arrangement negotiated between the cooperative and such handler.

Under the present terms of the Mississippi order the two plants at Prichard and Mobile would become fully regulated by virtue of the extent of their sales in the seven counties. One of these handlers has disposition in the area of 400,000 pounds monthly and the other 1.35 million pounds, in each case well in excess of the minimum in-area sales standard of 7,000 pounds daily for pooling.

An alternative standard in the order for pooling distributing plants is that at least 20 percent of the handler's route disposition must be in the marketing area. The two Alabama handlers would not have qualified for full regulation in all months on this standard although their disposition in the seven counties may have reached such percentage level in some months.

Official notice is taken of the decision of March 11, 1965, concerning the issuance of the Mississippi Federal milk order No. 103 (30 F.R. 3470) in which it was found that it is necessary that a plant fully regulated be required to pay class prices for all milk handled whether disposed of inside or outside the marketing area. The findings and conclusions of that decision with respect to the Class I disposition both inside and outside the marketing area are applicable to the situation here considered and are adopted as if set forth in full herein.

It was provided further in such decision that handlers with some sales in the marketing area, but less than the amount required for pooling, should be subject to partial regulation. Such provisions as they apply currently are set forth in § 1103.62 and specify alternatives for computing the order obligation of a handler operating a partially regulated distributing plant.

The obligation to the pool of a partially regulated plant applies only with respect to his Class I disposition in the marketing area. The handler also has the alternative of making payment to his producers at not less than the use value of his milk computed at the order's minimum class prices. Under either of these options, the handler pays the administrative expense on his Class I sales in the marketing area. The handler has also a further alternative of purchasing Federal order Class I milk in a quantity to cover his Class I disposition in the marketing area, as is currently the case with the handler at Mobile. Under the latter option the handler has no money obligation under the order.

The marketing area definition and pooling standards work jointly in establishing the scope of the regulation on plant operations. As previously indicated, while each of the Alabama plants has well in excess of the minimum 7,000 pounds daily of Class I route disposition in the marketing area as proposed to be extended, its area route sales approximate the level of 20 percent of monthly route sales in the marketing area, which is the other minimum standard for pooling.

By removing the first pooling standard, i.e., 7,000 pounds daily, from the order, both such handlers would be in a position, with only small adjustments in sales levels in the seven counties, either to meet or to not meet the 20 percent standard.

Thus, without substantial change in operations, either of the handlers not now under regulation could meet the conditions for a partially regulated handler while, at the same time, a principal sales area for fully regulated handlers would be placed under the uniform price plan. Under present circumstances, their partial regulation would be sufficient to assure stable marketing conditions within the revised marketing area. At the same time the effect of regulation on the procurement and sales of these handlers for their Alabama markets would be minimized. The latter sales, which represent 80 percent of their fluid disposition and a volume equal to more than one-fourth of the Class I milk now in the Mississippi order pool, are made outside the customary market for the Mississippi producers who are under the order.

It is not expected that the modified pooling provision would change the status of any plant which is now fully regulated.

Concerning the objection of the cooperative which opposed the proposed area extension, it may be pointed out that the voluntary arrangement for producer payment higher than the minimum order requires could continue whether or not its members' milk becomes fully or partially regulated under the Mississippi order.

2. *Location differential.* The seven counties to be added to the marketing area should comprise a pricing zone in which the Class I price should be the same as now applies at Gulf Coast locations.

Under the present order provisions, the basing points for Class I prices are Gulfport and Pascagoula, Miss. At locations outside the marketing area and 60 miles but not more than 100 miles from the courthouse in Gulfport or Pascagoula, Miss., whichever is nearer, there is a deduction of 10 cents per hundredweight and an additional deduction of 1½ cents for each 10 miles or fraction thereof the distance is more than 100 miles. In the marketing area, the Class I price at the Keesler Air Force Base in Harrison County is the same as at Gulfport and Pascagoula, and in the remainder of the marketing area is 16 cents per hundredweight less.

The 60-mile distance as measured from Gulfport or Pascagoula covers all locations in the seven counties except part of Greene County. The price zone as here proposed, therefore, essentially continues the present Class I price for any regulated plant located in the seven counties. The pool plant at Biloxi has been paying the same Class I price as would apply in the counties. There is no milk plant in Greene County.

The plants at Mobile and Prichard, Ala., are within the 60 mile distance from Pascagoula. This decision makes no change in the Class I price level applicable at these locations. In view of the similarity of location and in production conditions it is appropriate that the same price level should apply as at locations on the Gulf Coast in Mississippi.

Producer uniform prices are subject to the same location differential pricing as applied to Class I prices.

3. *Diversion.* For the months of December through August it should be provided that a producer's milk may be diverted to a nonpool plant subject only to the limitation that the producer's production for 10 days is delivered during the month to pool plants.

Dairymen, Inc., proposed that the diversion of a producer's milk be freed from the present order limitations which require that the producer's milk either be delivered to pool plants for 10 days of production during each of the 2 preceding months, or that the producer have producer status during the entire 2 preceding months. These restrictions, they held, interfere with the economical handling of milk by the cooperative for the Mississippi market. Since membership of Dairymen, Inc., comprises about 85 percent of the producers on the market, a very large share of the milk of the market is handled in their operations.

Dairymen, Inc., also has producer members in the New Orleans Federal order market. The association's handling of milk for both markets in a most efficient manner at times involves shifting of dairy farmers between the two markets. Present order provisions applicable to the December–August period (previously described) prevent diversion of a producer's milk during the first 2 months he is brought back on the market after a shift (even for 1 month) of his deliveries to another market. Under present circumstances this provision prevents the cooperative from realizing some of the economies otherwise possible in handling milk for both markets.

The proposed revision would base the diversion privilege in each month of the December–August period on the number of days of production of the producer delivered to pool plants during the month. This will enable a cooperative association to divert the milk of a producer during the first month in which he is brought on the market even if in the prior month his deliveries had been outside the market. This change will facilitate the efficient handling of supplies for the market.

4. *Conforming changes.* It is desirable that insofar as possible the terms used in the order conform with standard terminology of Federal orders. For this reason the term "advance payment" appearing in § 1103.90(b) of the order should be changed to "partial payment" which is the commonly used term. The term "partial payment" is more descriptive of the type of payment to which reference is made.

In this provision it should be made clear that the payment is part of the handler's obligation for the quantity of milk delivered during the entire month although the payment is calculated by multiplying the hundredweight of milk delivered in the first 15 days by the Class II price of the preceding month.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds,

and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The following order amending the order, as amended, regulating the handling of milk in the Mississippi marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. 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:

1. Revise § 1103.6 to read as follows:

§ 1103.6 Mississippi marketing area.

The "Mississippi marketing area" hereinafter called the "marketing area", means all of the territory geographically within the places listed below, all waterfront facilities connected therewith and all territory wholly or partially therein occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments all in the State of Mississippi:

COUNTIES

Adams.
Attala.
Bolivar.
Calhoun (Beats 1 and 4 only).
Carroll.
Choctaw.
Claiborne.
Clarke.
Coahoma (Beats 4 and 5 only).
Copiah.
Covington.
Forrest.
Franklin.
George.
Greene.
Grenada.
Hancock.
Harrison.
Hinds.
Holmes.
Humphreys.
Jackson.
Jasper.
Jefferson.
Jefferson Davis.
Jones.
Lamar.
Lauderdale.
Lawrence.
Leake.
Leflore.
Lincoln.
Lowndes.
Madison.
Marion.
Montgomery.
Neshoba.
Newton.
Noxubee.
Oktibbeha.
Pearl River.
Perry.
Quitman (Beats 2, 3, 4, and 5 and the village of Crowder including that portion in Panola County).
Rankin.
Scott.
Sharkey.
Simpson.
Smith.
Stone.
Sunflower.
Tallahatchie.
Walthall.
Warren.
Washington.
Wayne.
Webster (except Beat 5).
Winston.
Yazoo.
Yalobusha (Beats 1, 4, and 5 only).

2. In § 1103.11 Pool plant, revise paragraphs (a) and (b) to read as follows:

§ 1103.11 Pool plant.

* * * * *

(a) A distributing plant, other than that of a producer-handler or one described in § 1103.61, from which during the month route disposition of fluid milk products is not less than 50 percent of its total receipts of Grade A milk and the volume so disposed of in the marketing area is at least 20 percent of the total route disposition of fluid milk products;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of the Grade A milk received at such plant from dairy farmers is transferred during the month to a distributing plant(s) from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers and from other plants is disposed of as route disposition during the month and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition: *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August;

* * * * *

3. In § 1103.15 Producer, revise paragraph (b) to read as follows:

§ 1103.15 Producer.

* * * * *

(b) Diverted to a nonpool plant(s) by the operator of a pool plant or by a cooperative association as a handler pursuant to § 1103.13(c) during any of the months of December through August: *Provided*, That this diversion privilege shall be applicable only to the milk of a producer whose milk is delivered for 10 days of production to pool plants during the month and that diversion to an other order plant shall be limited to Class II use.

* * * * *

4. In § 1103.53(a) subparagraph (1) is revised to read as follows:

§ 1103.53 Location differential to handlers.

(a) * * *

(1) For milk received at a pool plant located in the Mississippi marketing area except that part in George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone Counties..... 16.0

* * * * *

5. In § 1103.90 paragraph (b) is revised to read as follows:

§ 1103.90 Time and method of payment.

* * * * *

(b) On or before the last day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment equal to the Class II price for the preceding month for milk testing 3.5 percent butterfat multiplied by the hundredweight of milk received from such producer during the first 15 days of the current month.

* * * * *

Signed at Washington, D.C., on July 30, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-9133; Filed, Aug. 4, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 61, 63, 91, 121, 123, 127, 135]

[Docket No. 9741; Notice 69-32]

CARRIAGE OF NARCOTIC DRUGS, MARIHUANA, AND DEPRESSANT AND STIMULANT DRUGS BY AIRCRAFT

Notice of Proposed Rule Making

In order to prevent the hazardous operation of aircraft that can result from the aerial carriage of narcotic drugs, marihuana, and depressant and stimulant drugs under certain conditions, the Federal Aviation Administration is considering amending the Federal Aviation Regulations to prohibit the use of aircraft to carry narcotic drugs, marihuana, and depressant and stimulant drugs under those limited conditions. Because of the unusually severe safety considerations involved, violation of this prohibition would, under these proposals, be prescribed as the basis for denying applications for certain airman certificates. In addition, these safety considerations and equally severe public interest considerations would be the basis for suspending or revoking these airman certificates and also for suspending or revoking certificates issued under Part 121 (Air Carriers and Commercial Operators of Large Aircraft), Part 123 (Air Travel Clubs Using Large Airplanes), Part 127 (Scheduled Air Carriers with Helicopters), and Part 135 (Air Taxi Operators and Commercial Operators of Small Aircraft). Denial, suspension, and revocation of certain airman certificates is also proposed for conviction of violation of specified statutory provisions concerning narcotic drugs, marihuana, and depressant and stimulant drugs. Finally, flight plan, position reporting, and related requirements are proposed to assist in the prevention of the carriage of these items under conditions that are expected to

become increasingly hazardous to air commerce.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before August 18, 1969, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The President, as stated in his message dated July 14, 1969, to the Congress concerning the Control of Narcotics and Dangerous Drugs, has directed the initiation of a major new effort to guard the Nation's borders and ports against the growing volume of narcotics from abroad. A major portion of this illegal traffic has, for some time, been accomplished by aircraft flying from Mexico to the United States. As a result, necessary State, local, and Federal enforcement pressures have been increasing against such aircraft operators. While the Federal Aviation Administration does not enforce the antismuggling and related statutes, it has become aware of the growth of hazards to air commerce arising in connection with the increasing use of aircraft to escape detection at the Mexican border. These hazards have increased along with the increasing demand for narcotic drugs, marihuana, and depressant or stimulant drugs in the United States because this increased demand, despite actions by governments on both sides of the border, has increased the number of pilots who are willing to risk the carriage of these illegal goods under severe enforcement pressures. As suggested above, these pressures may be expected to increase drastically under the new Federal enforcement efforts, as indeed they must if the importation of narcotic drugs, marihuana, and depressant or stimulant drugs is to be controlled in the public interest.

The means for the detection of aircraft at the Mexican border now include low altitude radar, pursuit aircraft, and advanced police techniques, and are being supplemented. Any pilot committed to escaping these devices in order to avoid severe penalties may be expected to engage in extremely dangerous flight techniques such as violent maneuvering to avoid pursuit aircraft; very low flight to avoid radar; landing and taking off from unprepared landing areas; and operation in weather conditions beyond the capability of the aircraft or pilot. The pressures on the pilot in such an environment are far more severe than, for example, the fatigue factors that the FAA has recognized for years in prescribing flight time limitations for pilots.

In short, although other agencies are responsible for controlling the traffic in narcotic drugs, marihuana, and depressant or stimulant drugs, and although the mere carriage of these items under normal conditions is not dangerous, nevertheless the factors of necessarily increased enforcement efforts and increased demand for these items have combined to pose a direct threat to air commerce, at least with respect to the aerial smuggling of those items from Mexico into the United States.

In order to meet this threat directly, new § 91.12(a) would provide that, unless otherwise authorized by the Administrator, no person may operate a civil aircraft, on a flight between Mexico and the United States, while carrying narcotic drugs, marihuana, and depressant or stimulant drugs.

Because of the large volume of air traffic between Mexico and the United States, effective enforcement of proposed § 91.12(a) will be extremely difficult, and in some cases impossible, unless adequate flight plan and position reporting requirements are also prescribed, so that radar and other detection devices may be used to identify possible violators of proposed § 91.12(a). Experience has indicated that the provisions of Subpart A of Part 99 provide a necessary basis for early identification and flight-following of aircraft entering the United States.

While safety in air commerce, rather than national security, is the basis for proposed § 91.12(a), it is believed that the flight plan, position reporting, and related provisions of Part 99 would assist in detecting possible violators of § 91.12 (a). It is therefore proposed, for the same safety reasons that support proposed § 91.12(a), to incorporate Subpart A of Part 99 directly into Part 91 to cover flights between Mexico and the United States. However, since § 99.1(b)(1) excepts certain operations at a true airspeed of less than 180 knots, and § 99.1 (b)(3) excepts outbound operations through the Southern Border ADIZ, it is necessary to eliminate these exceptions if all potential violators of proposed § 91.12(a) are to be covered. Therefore, proposed § 91.12(b), based on safety in air commerce (not national security), would incorporate the substantive flight plan, position reporting, and related requirements of Subpart A of Part 99, and apply these provisions to all operations of civil aircraft, between Mexico and the United States, "notwithstanding the exceptions in § 99.1(b) (1) and (3) of Part 99." An additional problem exists if two-way radio is not available, since the position reporting provisions of Part 99 could not be applied. However, it is not deemed reasonable to prevent all operations without two-way radio. Therefore, proposed § 91.12(b) would require each person operating an aircraft without two-way radio to land at the designated airport of entry nearest the point of entry into the United States, and to file an arrival or completion notice.

In addition to the above, the willingness of a person to engage in the smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or to use aircraft under the conditions mentioned above, raises serious questions of character and qualification, directly related to safety, that must be regarded as rendering that person ineligible for certain airman certificates. It is not believed necessary to extend the broad "good moral character" provision of § 61.141(b) to all airmen at this time. Rather, it is believed adequate to prescribe specific statutory violations, and actions, the commission of which is directly related to the safety considerations mentioned above and indicates character defects, related to attitudes necessary for safety, so severe as to require the FAA to determine that any applicant who has committed those violations or actions does not possess proper qualifications for certain certificates.

More specifically, the FAA believes that a demonstrated willingness to violate any one of 11 listed statutory provisions concerning the illegal trafficking in narcotic drugs, marihuana, and depressant or stimulant drugs, or a demonstrated willingness to violate § 91.12(a) clearly demonstrates a tendency to act without inhibition in an unstable manner and without regard to the rights of others. Such conduct also clearly demonstrates that the applicant would not be compliance-minded regarding the many requirements necessary for safety in air commerce or air transportation. For these reasons, new §§ 61.2 and 63.2, paragraphs (a) and (b), would provide that conviction of violation of specified statutory provisions and violation of proposed § 91.12(a) render an applicant ineligible for certificates issued under those Parts 61 and 63. Because of the applicant's right to review by the National Transportation Safety Board 1 year after denial, the proposed rules would limit the ineligibility to 1 year. As proposed, this ineligibility would be limited to certificates granting airman privileges that directly involve the flight of aircraft and that would therefore be directly and immediately vulnerable to the applicant's demonstrated propensity to place himself in an environment where he may have to choose between safety and severe statutory penalties. These certificates include those issued to pilots and flight instructors (Part 61) and those issued to flight crewmembers other than pilots (Part 63).

The FAA further believes that the same safety considerations that should disqualify an applicant for these airman certificates are also of sufficient importance to justify the conclusion that safety in air commerce or air transportation requires revocation or suspension of these airman certificates. Such revocation or suspension is proposed in paragraph (c) of proposed §§ 61.2 and 63.2.

Because of similar safety considerations, suspension or revocation is also proposed in the case of operating certificates issued under Parts 121, 123, 127, and 135. The privileges inherent in these

operating certificates can directly support, or even be essential to, the use of expensive modern aircraft to smuggle narcotic drugs, marihuana, and depressant or stimulant drugs in the unsafe conditions along the Mexican border. This is true regardless of whether the aircraft is being operated under the certificate at the time, since the corporate financial and management strength necessary to operate such aircraft largely flows from the operating privileges granted under these operating certificates. Thus, like the airman certificates, operating certificates can have the effect of providing a condition necessary to the use of the aircraft, by any person, in the hazardous business of smuggling. In addition, for reasons identical to those that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of these operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. This is true regardless of whether that risk-taking occurs by leasing the aircraft to other persons who smuggle the illegal items or by operating the aircraft themselves in that business.

In addition to the above mentioned reasons for concluding that safety in air commerce or air transportation requires the suspension or revocation of these airman certificates and operating certificates, there are also equally severe public interest factors that are directly opposed to the continued use of those certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs. A clear and recent definition of that public interest is expressed as follows in the President's July 14, 1969, message to the Congress:

> Within the last decade, the abuse of drugs has grown from essentially a local police problem into a serious national threat to the personal health and safety of millions of Americans * * *. However far the addict himself may fall, his offenses against himself and society do not compare with the inhumanity of those who make a living exploiting the weakness and desperation of their fellow men. Society has few judgments too severe, few penalties too harsh for the men who make their livelihood in the narcotics traffic * * *. Most of the illicit narcotics and high-potency marihuana consumed in the United States is produced abroad and clandestinely imported.

In summary, the Federal Aviation Administration believes that there are urgent public interest factors, in addition to safety factors, that require the suspension or revocation of any airman certificate or operating certificate that in any way assists in the importation of narcotic drugs, marihuana, and depressant or stimulant drugs, by aircraft, from Mexico.

In consideration of the foregoing, it is proposed to amend subchapters D, F, and G of Chapter I of Title 14 of the Code of Federal Regulations as hereinafter set forth:

A. Parts 61 and 63 would be amended by adding, respectively, new §§ 61.2 and 63.2, to read as follows:

§ _____.2 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs.

(a) No person who is convicted of violating any of the following statutory provisions is eligible for any certificate issued under this part for a period of one year after the date of conviction:

(1) 21 U.S.C. 174
(2) 21 U.S.C. 176a.
(3) 21 U.S.C. 184a.
(4) 21 U.S.C. 331.
(5) 21 U.S.C. 360a.
(6) 26 U.S.C. 4704.
(7) 26 U.S.C. 4705.
(8) 26 U.S.C. 4742.
(9) 26 U.S.C. 4744.
(10) 26 U.S.C. 4755.
(11) 18 U.S.C. 545, where the conviction involves the smuggling of any "depressant or stimulant drug" as defined in 21 U.S.C. 321(v).

(b) No person who commits an act prohibited by § 91.12(a) of this chapter is eligible for any certificate issued under this part for a period of one year after the date of that act.

(c) Convictions specified in paragraph (a) of this section, and the commission of the act specified in paragraph (b) of this section, are grounds for suspending or revoking any certificate issued under this part.

B. Part 91 would be amended by adding the following new § 91.12:

§ 91.12 Flights between Mexico and the United States.

(a) Unless authorized by the Administrator, no person may operate a civil aircraft, on a flight between Mexico and the United States, while carrying any of the following:

(1) "Narcotic drugs" as defined in 26 U.S.C. 4731(a).

(2) "Marihuana" as defined in 26 U.S.C. 4761(2).

(3) "Depressant or stimulant drug" as defined in 21 U.S.C. 321(v).

(b) In addition to the other applicable regulations of this part, and notwithstanding § 99.1(b) (1) and (3) of this chapter, each person operating a civil aircraft, on a flight between Mexico and the United States, shall comply with the requirements of Subpart A of Part 99 of this chapter. If operation without two-way radio is involved, that person shall, in addition to complying with § 99.1(c), land at the designated airport of entry nearest the point of entry into the United States, and file an arrival or completion notice.

C. Parts 121, 123, 127, and 135 would be amended by adding new §§ 121.2, 123.2, 127.2, and 135.2, to read as follows:

§ _____.2 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs.

If any aircraft, that is owned or leased by the holder of a certificate issued under this part, is operated in violation of § 91.12(a) of this chapter by any person, such operation is a basis for suspending or revoking that certificate, whether or not the operation is conducted under that certificate.

These amendments are proposed under the authority of sections 307(c), 313(a), 601, 602, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422, 1423, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.4 (b)(2) of Part 1 of the regulations of the Office of the Secretary of Transportation.

Issued in Washington, D.C., on August 1, 1969.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 69-9198; Filed, Aug. 4, 1969; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SW-51]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Monticello, Ark., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.181 (34 F.R. 4637), the following transition area is added:

MONTICELLO, ARK.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Monticello Municipal Airport (lat. 33°38'10" N., long. 91°45'10" W.), and within 2 miles each side of the Monticello VOR TAC 336° radial extending from the 5-mile radius area to the VORTAC.

(2) In § 71.181 (34 F.R. 4670), the Crossett, Ark., transition area 1,200-foot portion is amended in part by deleting "* * * lat. 33°33'43" N., long. 91°42'56"

W. * * *" and substituting "* * * lat. 33°37'00" N., long. 91°34'00" W. * * *" therefor.

A new public use instrument approach procedure has been developed for the Monticello, Ark., Municipal Airport using the Monticello VORTAC as the navigational aid. Accordingly, it is necessary to designate the Monticello, Ark., transition area and alter the Crossett, Ark., transition area 1,200-foot portion to provide controlled airspace protection for aircraft executing instrument approach/departure procedures proposed at the Monticello Municipal Airport. The proposed designation and alteration would provide this airspace.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on July 28, 1969.

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

[F.R. Doc. 69-9124; Filed, Aug. 4, 1969; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SW-52]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Vivian, La.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

VIVIAN, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Vivian Municipal Airport (lat. 32°51'55" N., long. 94°00'30" W.), and within 2 miles each side of the Shreveport VORTAC 299° radial extending from the 5-mile radius area to 5.5 miles northwest of the VORTAC.

The proposed transition area will provide airspace protection for aircraft executing approach/departure procedures proposed at Vivian Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on July 28, 1969.

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

[F.R. Doc. 69-9125; Filed, Aug. 4, 1969; 8:45 a.m.]

[14 CFR Part 127]

[Docket No. 9545; Notice 69-31]

ELIMINATION OF REQUIREMENT FOR PERFORMING ONE-ENGINE INOPERATIVE PROFICIENCY LANDINGS AT 90-DAY INTERVALS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 127 of the Federal Aviation Regulations to eliminate the requirement that helicopter air carrier pilots make two one-engine inoperative proficiency landings in each 90-day period, and to provide that the autorotative proficiency landings be made in the type helicopter in which each pilot is to serve.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 6, 1969, will be considered by the Administrator before taking on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

When multiengine helicopters were introduced into air carrier service over 6 years ago, the FAA placed a requirement on those air carriers to give their pilots training in one-engine-inoperative approaches at 90-day intervals. Prior to that time, only single-engine helicopters had been in use, and practice in autorotative approaches was considered imperative because of the unfavorable flight characteristics with the engine inoperative.

The FAA felt that the one-engine-inoperative practice approaches in multiengine helicopters would serve as safety training in view of the limited experience of the carriers with multiengine helicopters, and the seriousness of single-engine-inoperative experience.

However, multiengine experience has been good. Occurrences of one engine becoming inoperative have been very few, and the dangers from one engine out have been shown to be negligible. Emergency procedures with one engine inoperative are not difficult, and there is little or no change in controllability or flight characteristics. The "stay-up" capability, even when the helicopter is fully loaded, is excellent.

After more than 6 years experience in the operation of multiengine helicopters in air carrier service, we believe the requirement unnecessary for proficiency demonstrations of one-engine-inoperative approaches at 90-day intervals. This maneuver is required during the pilot's 6-month proficiency check, and we believe this to be sufficient.

In addition, it is proposed to amend § 127.175 to require that an air carrier pilot engaged in scheduled air transportation make his proficiency takeoffs and landings in each type of helicopter in which he is to serve. There is sufficient variety in the emergency procedures for each type that proficiency and specific safety techniques is essential. General proficiency may be attained in a variety of ways, but the public interest is best served by having each pilot proficient and current as to the safety techniques applicable to the particular type helicopter in which he regularly serves the public.

In consideration of the foregoing, it is proposed to amend § 127.175 of Part 127 of the Federal Aviation Regulations to read as follows:

§ 127.175 Pilot Qualification: recent experience.

No air carrier may use a pilot in scheduled air transportation unless, within the preceding 90 days, he has made at least three takeoffs and three landings in each type of helicopter in which he is to serve. At least two of the landings must have been from an approach in autorotation in each type single engine helicopter in which he is to serve. In addition, if the pilot is scheduled to serve in air transportation at night, at least one of the autorotative landings must have been made at night.

This amendment is proposed under the authority of sections 313(a) and 601(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(a), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 30, 1969.

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

[F.R. Doc. 69-9126; Filed, Aug. 4, 1969; 8:46 a.m.]

Federal Highway Administration

[49 CFR Part 371]

[Docket No. 2-9]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Withdrawal of ANPRM Glazing Materials—Trailers

On October 14, 1967, the Federal Highway Administration published in the FEDERAL REGISTER (32 F.R. 14278) an advance notice of proposed rule making (Notice 67-5) announcing 47 separate items which were being considered as amendments to the Federal Motor Vehicle Safety Standards and requesting comments on these items.

Among the items considered for future rulemaking was a proposal to extend the applicability of the Glazing Material Standard (No. 205) to trailers. This proposal was designated Docket No. 2-9—Glazing Materials—Trailers.

Based on an evaluation of the comments received, a technical meeting with interested persons held on May 1, 1968, and research performed by the National Highway Safety Bureau, no further rulemaking action is contemplated at this time, and that portion of the advance notice of proposed rule making designated as Docket No. 2-9 Glazing Material—Trailers is withdrawn. This does not preclude the Federal Highway Administration from issuing another notice in the future on the same or a similar subject should conditions warrant such action.

This action is taken under the authority of sections 103 and 112 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1497) and the delegation of authority contained in section 1.4(c) of Part I of the regulations of the Office of the Secretary (49 CFR 1.4(c)).

Issued on July 31, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-9167; Filed, Aug. 4, 1969; 8:48 a.m.]

[49 CFR Part 371]

[Docket No. 69-5; Notice 3]

MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Safety Standard No. 205; Glazing Materials; Notice of Extension of Time To File Comments

On April 22, 1969, the Federal Highway Administration published in the FEDERAL REGISTER (34 F.R. 6739) a notice of extension of time to file comments in response to the proposed amendment to Standard No. 205 dealing with forward facing windows of campers, pickup caps, pickup covers and pickup canopies (34 F.R. 3699). Three glazing manufacturers have asked for an additional extension of time to file comments beyond the August 1, 1969, date so that they can conclude a series of tests pertaining to the safety of acrylics which were unavoidably delayed due to problems in obtaining test equipment and in perfecting testing techniques.

In view of the foregoing, additional time to file comments in response to the notice of proposed rule making which would amend Standard No. 205 is being allowed, and the time to file comments in response to the proposed amendment is extended from August 1, 1969, until October 1, 1969.

This notice of extension of time to file comments is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority contained in § 1.4 (c) of Part 1 of the regulations of the Office of the Secretary (49 CFR 1.4(c)).

Issued on: July 31, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-9168; Filed, Aug. 4, 1969; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

QUANTITY OF CONTENTS DECLARATIONS ON MULTIUNIT CONTAINERS

Extension of Time for Filing Comments

In the matter of amending the regulations for the enforcement of the Fair Packaging and Labeling Act (21 CFR Part 1) to require a declaration of quantity of contents on multiunit containers in terms of the number of individual units, the quantity of each individual unit, and the total quantity of the contents of the multiunit package:

The notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of June 26, 1969 (34 F.R. 9874), provided that comments could be filed regarding the proposal within 30 days following its date of publication.

The Commissioner of Food and Drugs has received requests for an extension of time for filing comments and, good reason therefor appearing, the time for filing comments in this matter is extended to August 25, 1969.

This action is taken pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) 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).

Dated: July 28, 1969.

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

[F.R. Doc. 69-9119; Filed, Aug. 4, 1969; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 43]

[Docket No. 18611; FCC 69-822]

TELEPHONE COMPANIES

Annual Report Form M and Monthly Report Form 901

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. On June 18, 1969, the Commission, in Docket No. 18477, amended Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the rules and regulations by revising the income accounts in order to reflect therein extraordinary and nonrecurring items of the companies which were previously included in the surplus accounts. That amendment also provided for charging to separate accounts the Federal income taxes relating to operating income, "below-the-line" income, extraordinary and delayed income and retained earnings entries. These amendments will become effective January 1, 1970.

3. In view of the foregoing, it is believed necessary to amend certain schedules in Annual Report Form M and also to revise certain data reported in Monthly Report Form 901 to bring the 1970 report forms in accord with the accounting to be effective in 1970. It is also believed appropriate to add two new schedules in Form M to obtain data with respect to the revised accounting that will then become effective.

4. Because of the allocation of income taxes among several accounts as prescribed in Docket No. 18477, it is necessary to revise the presently prescribed schedule in Annual Report Form M for operating taxes. It is proposed to delete data with respect to Federal income taxes from Schedule 36A, Operating Taxes, change the title of that schedule to "Other Operating Taxes" and to prescribe a new schedule to be designated as Schedule 36C, Federal Income Taxes, for reporting the Federal income taxes that are charged, and the income tax effect of entries that are credited, to the various accounts. At the same time, it is proposed to rearrange the order of the other tax schedules because of space considerations in the Report Form, by redesignating Schedule 36B, Excise Taxes Collected from Users of Respondent's Services, as Schedule 36D and to redesignate Schedule 36C, Prepaid Taxes and Tax Accruals (Accounts 130 and 166), as Schedule 36B.

5. The other new schedule proposed to be included in Annual Report Form M is Schedule 45, Analysis of Extraordinary and Delayed Items (Accounts 360, 365, 370, 375 and 380). This schedule is designed to obtain details with respect to the items included in the newly prescribed extraordinary and delayed items accounts. At the same time, it is proposed to change the title of Schedule 44, Delayed Items, to read "Nondistortive Delayed Items" in order to be more descriptive of the contents.

6. An existing schedule in Form M that is proposed for substantial revision is Schedule 11, Income and Earned Surplus Statement. It is proposed to amend the title to read "Income and Retained Earnings Statement" and to provide therein for the revised income and retained earnings accounts adopted in Docket No. 18477 together with appropriate revisions in the group and total captions in the schedule.

7. Minor changes in captions, accounts and references are also proposed in certain other schedules in accordance with the revised accounting prescribed in Docket No. 18477.

8. Two minor unrelated changes are also proposed in Form M. These proposals relate to the General Instructions appearing on page 1 for completing the report form. Instruction 4 is proposed to be revised to permit indicating negative amounts by the use of a minus symbol following the amount in lieu of enclosing such amounts in parentheses. This is to provide for schedules which are prepared with the use of computers. General Instruction 6 currently permits reference to a full page of data submitted in the 1961 or 1971 Report Forms in lieu of completing an exact duplicate of such data as the reply to a single query in subsequent years. Due to limitations in filing space, the Commission now retains report forms on its premises for only 5 years and then sends them to Archives. Furthermore, it has been determined that the only significant use that is being made of this permissive provision is with respect to maps of respondents' territories required by query 3 of Schedule 7. It is therefore proposed to delete the permission from the General Instructions and to include the provision in query 3 of Schedule 7 as permission to refer to the last previous year ending in zero or five with respect to furnishing maps only.

9. Minor changes are also proposed in Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies, to coordinate that report form with accounting changes made in Docket No. 18477.

10. If the foregoing proposals are adopted, the Table of Contents and the Index for Annual Report Form M will be amended accordingly.

11. Since the amendments proposed herein pertain to accounting effective January 1, 1970, it is proposed that any amendments made as a result of this proceeding will be effective in the Annual Report Form M for the year 1970, and in Monthly Report 901 for January 1970.

12. In view of the foregoing, it is proposed to amend Annual Report Form M and Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies, as set forth in the attached Appendix.[1]

13. This notice of proposed rule making is issued under authority of sections 4(i) and 219 of the Communications Act of 1934, as amended.

[1] Filed as part of original document.

14. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 2, 1969, and reply comments on or before September 16, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commssion may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

15. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements or briefs shall be furnished to the Commission.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-9151; Filed, Aug. 4, 1969; 8:47 a.m.]

[47 CFR Part 63]

[Docket No. 18509]

TELEPHONE COMPANIES

Certificates for Channel Facilities Furnished to Affiliated Community Antenna Television Systems

1. The Commission has before it a motion filed by G.T. & E. Service Corp. on July 29, 1969, requesting that the time for filing reply comments in the above-captioned matter be extended to September 2, 1969. Reply comments are presently due on August 1, 1969.

2. In support, it is stated that extensive initial comments of the U.S. Department of Justice filed on July 18, 1969, were accepted by our order herein released on July 23, 1969. (Mimeo No. 35676 C). In said order, we stated that the Department's suggestion that all interested parties be afforded additional time to file replies was moot since the time for filing replies had previously been extended for all parties to August 1, 1969. G.T. & E. Service Corp. states that the additional time previously granted is not sufficient to permit the preparation of an adequate reply to the comments of the Justice Department in addition to those of the other parties filing comments herein; that it had no knowledge of the existence of the Justice Department filing until after the release of our order on July 23, 1969; that the actual text of the Justice Department comments was not available to its counsel until late afternoon of July 24, 1969; that such comments included serious charges affecting the telephone industry in general, and the General System in particular, and included recommendations beyond anything heretofore contemplated.

3. We have previously stated our desire to conclude this matter as quickly as possible because of the important public interest issues involved. However, we believe that full consideration should be given to the recommendations of the Justice Department. We believe that the public interest will be served by affording all interested parties additional time until August 19, 1969 to file reply comments herein.

4. In view of the foregoing, GT&E Service Corp.'s request for an extension of the filing date for reply comments to September 2, 1969, will be denied to the extent that it requests an extension beyond August 19, 1969.

5. *Accordingly, it is ordered,* Pursuant to authority delegated by § 0.303(c) of the Commission's rules, that the time for filing reply comments in the above-captioned proceedings is hereby extended to and including August 19, 1969; and that GT&E Service Corp.'s motion is hereby denied insofar as it requests an extension beyond August 19, 1969.

Adopted: July 30, 1969.

Released: July 30, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[F.R. Doc. 69-9152; Filed, Aug. 4, 1969; 8:47 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 4]

[Docket No. R-365]

PROTECTION AND ENHANCEMENT OF NATURAL, HISTORIC, AND SCENIC VALUES IN THE DESIGN, LOCATION, CONSTRUCTION, AND OPERATION OF PROJECT WORKS

Notice of Proposed Rule Making

JULY 29, 1969.

1. Notice is given pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553) that the Commission is proposing to include a new § 2.12 of the rules of practice and procedure and amend Part 4 of the regulations under the Federal Power Act relating to the implementation of procedures for the preservation of aesthetic and related values in the design, location, construction, and operation of project works.

2. There has been an ever increasing concern in the preservation and enhancement of the Nation's natural, historic, and scenic values. The court in Scenic Hudson Preservation Conf. v. F.P.C., 354 F. 2d 608 (C.A. 2 1965), cert. den., sub nom. Consolidated Edison v. Scenic, 384 U.S. 941, interpreted the Commission's power to condition a license pursuant to section 10(a) of the Federal Power Act (41 Stat. 1068, 16 U.S.C. 803) as encompassing "the conservation of natural resources, the maintenance of natural beauty and the preservation of historic sites." Following the passage of the National Historic Preservation Act of 1966 (80 Stat. 915) the Commission has included articles in permits and licenses designed to affect the policies of that Act. On May 2, 1969, by Executive Order No. 11472, President Nixon established the

Environmental Quality Council and the Citizens Advisory Committee on Environmental Quality to assist in the preservation and enhancement of scenic, natural, and recreational values.

The design, location, construction, and operation of a project can affect aesthetic, recreational, and other beneficial public considerations in determining whether the project is best adapted to a comprehensive plan for improving or developing a waterway.

The form and appearance of project works can be improved if creatively designed and constructed. Rights-of-way can be planned to utilize the features of the landscape in order to make transmission lines less conspicuous and minimize their effect on the Nation's natural environment. The Commission, by the proposed rulemaking, intends that future applications for licenses and certain applications for amendments to licenses contain exhibits showing the efforts taken toward the preservation and enhancement of aesthetics in the project plans.

3. The Commission proposes to amend Part 2, general policy and interpretations, by adding a new § 2.12 to include a policy statement with the provision that the Commission will neither authorize the disposition of any interest in project lands, nor agree to the amendment of any license, for the construction of any facilities without a showing that the facilities will be constructed to preserve aesthetics values.

4. The Commission proposes to amend § 4.41 to prescribe a new Exhibit V for inclusion in applications for license. This exhibit, the text of which is hereinafter set forth, provides for a showing by the applicant of its efforts to preserve and enhance aesthetic values in its plans for the project.

5. The Commission proposes to amend § 4.50 to prescribe a new Exhibit V for inclusion in applications for license for constructed projects. This exhibit, the text which is hereinafter set forth, consists of a map showing the location of transmission facilities and other project works in relation to recreational areas.

6. The Commission proposes to amend § 4.71 Exhibits J and K by deleting the next to last sentence thereof which will then require the applicant to submit a detailed Exhibit K covering the entire transmission line.

7. The Commission proposes to amend § 4.71 to prescribe a new Exhibit V for inclusion in applications for license. This exhibit is to be the same as Exhibit V of § 4.41.

8. The Commission proposes to amend § 4.82 Exhibit H with reference to an application for a preliminary permit by changing the wording of lines 10 and 11 to include rather than exclude transmission lines.

9. Concurrently with the issuance of any rule the Commission intends to issue a report entitled "Guidelines for the Protection of Natural, Historic, Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities." This report contains the guidelines developed by the Working Committee on Utilities of the President's Council on Recreation and Natural Beauty.

10. These amendments to the Commission's general policy and interpretations and to the regulations under the Federal Power Act are proposed to be issued under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly sections 4(e), 6, 9, 10, and 309 thereof (41 Stat. 1065, 1067, 1068; 49 Stat. 858; 16 U.S.C. 797(e), 799, 802, 803, 825h). Accordingly, it is proposed to amend:

(1) Part 2, Subchapter (A), Chapter I, Title 18, Code of Federal Regulations by adding a new § 2.12 to read as follows:

§ 2.12 Aesthetic design and construction.

The Commission has issued a report entitled "Guidelines for the Protection of Natural, Historic, Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities." It is contemplated that licensee will make maximum utilization of these guidelines in planning transmission facilites as to enhance those values or minimize the adverse effect upon them. Similar consideration should be given to the preservation and enhancement of these environmental values in the planning of other project works. In furtherance of this policy the Commission will not (1) permit the amendment of any license for the purpose of construction of additional facilities or (2) authorize the disposition of any interest in project lands for construction of any type, unless a showing is made that the construction will be designed to avoid conflict with the aesthetics of the area.

(2) Part 4, Subchapter (B), Chapter I, Title 18, of the Code of Federal Regulations by adding Exhibit V to § 4.41 as follows:

§ 4.41 Required Exhibits.

* * * * *

Exhibit V. A map, together with text, photographs, or drawings as may be needed to describe the location of, and architectural design, landscaping, and other reasonable treatment to be given to project works, including transmission lines, in the interest of protecting and developing the natural, historic, and scenic values and resources of the project area. The exhibit shall include measures to be taken during construction and operation of the project works including temporary facilities such as roads, borrow and fill areas, and clearing of the reservoir area to prevent damage to the environment and to preserve and enhance the project's scenic values, together with estimated costs of such treatments, location, and design. Applicant shall prepare this exhibit on the basis of studies made after consultation with Federal, State, and local agencies or organizations and individuals having an interest in the natural, historic, and scenic values of the project area, and shall set forth herein the nature and extent of this consultation. To the extent that these requirements have been fulfilled in other exhibits, a specific reference to the applicable parts of those exhibits will suffice.

(3) Part 4, Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations by adding Exhibit V to § 4.50 as follows:

§ 4.50 Contents.

* * * * *

Exhibit V. A map showing the location of the project's transmission lines, in relation to natural, historic, scenic, and recreational areas, and areas set aside for future recreational development. Appropriate details should be shown to allow for an adequate assessment of the effect of the lines on the areas of public interest. If the information desired herein can be shown with sufficient detail on Exhibit K or R this exhibit may be omitted.

(4) Part 4, Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations by revising Exhibits J and K and adding Exhibit V to § 4.71 as follows:

§ 4.71 Required Exhibits.

* * * * *

Exhibits J and K. Maps conforming to the requirements of §§ 4.40 to 4.42, inclusive, for applications for proposed major projects insofar as said requirements are applicable to transmission lines. If the application covers only part of a transmission system, Exhibit J shall show the connection to the nearest substations or main transmission lines through which the project line obtains and delivers its energy and either the general map or a small key map shall show the relation of the project to the main transmission system of the applicant in that region and to any previously licensed portions of said system. For short lines Exhibits J and K may be combined in one map.

* * * * *

Exhibit V. As prescribed by §§ 4.40 to 4.42 inclusive for applications for proposed major projects insofar as said requirements are applicable to transmission lines.

(6) Part 4, Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations by amending Exhibit H of § 4.82 to read as follows:

§ 4.82 Contents of application.

* * * * *

Exhibit H. A general map showing the nature of the proposed project, its principal features and their location, and the location of the project as a whole with reference to some well-known town or stream. On this map shall be placed a line indicating the approximate project boundary of the area to be occupied by the principal project works, such as, dams, reservoirs, forebays, waterways, powerhouses, and transmission lines, and where necessary in order to determine the location of such structures on the ground, there shall be shown on the map

their relative positions with respect to permanent monuments or objects that can be readily recognized from descriptions thereof noted on the map. (See specifications for drawings, § 4.42.)

10. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, on or before September 15, 1969, data, views, and comments in writing concerning the amendments proposed herein. An original and fourteen (14) copies of any such submittals should be filed. The Commission will consider any such submittals before acting on the proposed amendments.

By direction of the Commission. Commissioner Carver not participating.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-9135; Filed, Aug. 4, 1969; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ELBERT L. BROWN

Notice of Granting of Relief

Notice is hereby given that Elbert L. Brown, 710 Missouri, Muskogee, Okla., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 29, 1940, in the U.S. District Court for the Eastern District of Oklahoma, of an offense punishable by imprisonment for a term exceeding 1 year, as defined in 18 U.S.C. 925(a)(20). Unless relief is granted, it will be unlawful for Elbert L. Brown, because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that Chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C. Appendix) it would be unlawful for Mr. Brown to receive, possess, or transport in commerce or affecting commerce a firearm. Notice is hereby further given that I have considered Elbert L. Brown's application and have found:

(1) The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Elbert L. Brown from disabilities incurred by reason of his conviction would not be contrary to the public interest.

It is ordered, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), of title 18, United States Code, and delegated to me by the regulations in title 26, Part 178, Code of Federal Regulations, that Elbert L. Brown be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 29th day of July, 1969.

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

[F.R. Doc. 69-9159; Filed, Aug. 4, 1969; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Geological Survey

[No. 18]

WYOMING

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

NONPHOSPHATE LANDS

T. 40 N., R. 93 W.,
Sec. 32, NE¼SW¼, S½SE¼.
T. 41 N., R. 93 W.,
Sec. 4, lot 3;
Sec. 5, lots 1 to 4, inclusive;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 7, lot 1, NE¼NW¼.
T. 42 N., R. 93 W.,
Sec. 28, W½SW¼;
Sec. 29, S½SE¼;
Sec. 31, lot 4, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 32, NE¼, E½NW¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 33, NW¼NW¼, S½NW¼, SW¼, N½SE¼.
T. 41 N., R. 94 W.,
Sec. 1, lots 1, 3, and 4, S½N½, S½;
Sec. 2, SW¼NW¼, SW¼, NE¼SE¼, S½SE¼;
Sec. 3;
Sec. 9, lots 1 to 4, inclusive, NE¼, E½NW¼, SE¼SW¼;
Sec. 10, N½NE¼, SW¼NE¼, NW¼, E½SW¼, SE¼;
Sec. 11, NE¼, E½W½, N½SE¼, SE¼SE¼;
Sec. 12, N½NE¼, NE¼NW¼, SW¼NW¼, N½SW¼;
Sec. 14, N½NW¼, SW¼NW¼,
Sec. 15, N½, SW¼, NW¼SE¼;
Sec. 16, lots 1 and 2, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼.
T. 42 N., R. 94 W.,
Sec. 20, lot 4;
Sec. 21, lot 4;
Sec. 27, NW¼SW¼;
Sec. 28, lots 1, 2, and 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼.
Sec. 29, lots 1, 3, 4, and 5;
Sec. 33, lots 1, 2, and 3, W½NE¼, E½NW¼, NE¼SW¼;
Sec. 34, SE¼NE¼, E½SW¼, E½SE¼;
Sec. 36, W½SW¼.
T. 42 N., R. 94 W.,
Sec. 19, lots 2, 3, and 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, SW¼NW¼, S½;
Sec. 21, S½;
Sec. 22, S½SW¼, SW¼SE¼;
Sec. 25;
Sec. 26, lots 1 to 5, inclusive, NW¼NW¼;
Secs. 27 to 30, inclusive.
T. 43 N., R. 95 W.,
Sec. 18, lots 2 and 3, E½SW¼;
Sec. 20, SE¼NE¼, E½SE¼;
Sec. 21, S½N½, S½;
Sec. 22, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 26, W½SW¼;
Sec. 27, NW¼NE¼, S½NE¼, NW¼, N½S½, SE¼SE¼;
Sec. 28, NE¼, N½NW¼;
Sec. 35, N½N½;
Sec. 36, NW¼NW¼.
T. 42 N., R. 96 W.,
Sec. 13, SW¼, SW¼SE¼;
Sec. 14, SE¼SE¼;
Sec. 23, NE¼, E½SW¼, SE¼;
Secs. 24 and 25;
Sec. 26, lots 4 and 5, N½NE¼, NE¼NW¼.
T. 43 N., R. 96 W.,
Sec. 2, S½SE¼;
Sec. 11, NE¼, NE¼SE¼;
Sec. 12, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 13, NE¼, NE¼NW¼, NE¼SE¼.
T. 43 N., R. 100 W.,
Sec. 19, lot 1, SE¼SE¼;
Sec. 23, NE¼SW¼, S½SW¼, W½SE¼;
Sec. 25, lots 2, 3, and 4;
Sec. 26, lots 1, 2, and 3, N½N½;
Sec. 28, lots 3 and 4, SW¼NW¼;
Sec. 29, lot 1, N½NW¼, NW¼SE¼;
Sec. 30, NE¼.
T. 42 N., R. 101 W.,
Sec. 2, SW¼SW¼;
Sec. 3, S½.
T. 43 N., R. 101 W.,
Sec. 13, S½SW¼, SW¼SE¼;
Sec. 16, NW¼NW¼;
Sec. 17, N½NE¼, N½SE¼;
Sec. 24, N½NE¼, SE¼NE¼, NE¼NW¼.

WIND RIVER MERIDIAN, WYOMING

T. 6 N., R. 1 E.,
Sec. 1, lots 1 to 4, inclusive, SW¼NE¼, SE¼NW¼;
Sec. 2, lot 1.
T. 7 N., R. 1 E.,
Sec. 14, SW¼SE¼;
Sec. 19, lots 1 and 2, SE¼NW¼, NE¼SW¼;
Sec. 20, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 23, NW¼NE¼, S½NE¼, NE¼NW¼, SE¼;
Sec. 24, SW¼SW¼;
Sec. 25, W½, NW¼SE¼, S½SE¼;
Sec. 26, NE¼, NE¼SE¼;
Sec. 27, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 28, SW¼NE¼, NW¼NW¼, S½NW¼, NE¼SW¼, N½SE¼;
Sec. 29, NE¼NE¼;
Sec. 34, N½NE¼;
Sec. 35, NW¼NW¼, S½NW¼, NE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 36, E½NE¼, SE¼.
T. 8 N., R. 1 E.,
Sec. 12, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 13, N½NE¼;
Sec. 19, lots 1 to 4, inclusive, W½NE¼, E½W½, SE¼;
Sec. 22, SE¼SE¼;

Sec. 23, S½S½;
Sec. 24, S½S½;
Sec. 27, N½N½;
Sec. 28, N½;
Sec. 29, N½N½;
Sec. 30, lot 1, N½NE¼, NE¼NW¼.
T. 6 N., R. 2 E.,
Sec. 3, S½NE¼, S½;
Sec. 4, NW¼SW¼, S½S½;
Sec. 5, lots 2 and 3, S½NE¼, NE¼SE¼;
Sec. 6, lots 2, 3, and 4;
Sec. 9, N½NE¼;
Sec. 10, NW¼NW¼.
T. 7 N., R. 2 E.,
Sec. 2, lot 4, SW¼NW¼, NW¼SW¼;
Sec. 3, lots 1 and 2;
Sec. 30, lot 4;
Sec. 31, lots 1 to 4, inclusive, E½W½, SW¼SE¼;
Sec. 32, NW¼SW¼, S½SW¼.
T. 8 N., R. 2 E.,
Sec. 7, lots 1 to 4, inclusive, E½NW¼, SE¼SE¼;
Sec. 8, NE¼SW¼, S½SW¼, NW¼SE¼, S½SE¼;
Sec. 9, SW¼SW¼;
Sec. 15, SW¼, NW¼SE¼, S½SE¼;
Sec. 16, SW¼NE¼, W½, SE¼;
Sec. 17, NE¼, N½NW¼, SE¼NW¼, E½SW¼SE¼;
Sec. 18, NE¼NE¼;
Sec. 19, lot 4, SE¼SW¼;
Sec. 21, N½NE¼;
Sec. 22, N½N½;
Sec. 23, NW¼NE¼, S½NE¼, N½NW¼, SW¼NW¼, N½SW¼, SE¼;
Sec. 26, NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 29, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 30, NW¼NE¼, S½NE¼, NE¼NW¼;
Sec. 32, NE¼NE¼;
Sec. 33, NW¼NE¼, S½NE¼, N½NW¼, NE¼SE¼;
Sec. 34, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 35, NW¼, N½SW¼.
T. 5 N., R. 3 E.,
Sec. 3, lots 2, 3, and 4;
Sec. 4, lots 1 and 2.
T. 6 N., R. 3 E.,
Sec. 2, NW¼SW¼, S½SW¼;
Sec. 3, lot 2, S½NE¼, E½SE¼;
Sec. 11, NW¼NE¼, S½NE¼, N½NW¼, SE¼NW¼, E½SE¼;
Sec. 12, NW¼SW¼, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 13, NE¼, N½NW¼, N½SE¼;
Sec. 20, E½SE¼;
Sec. 21, SW¼SW¼;
Sec. 25, S½SW¼; NE¼SE¼, S½SE¼;
Sec. 26, SE¼SE¼;
Sec. 28, NW¼NW¼, S½NW¼, N½SW¼; SE¼SW¼, SW¼SE¼;
Sec. 33, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 34, S½N½, N½S½;
Sec. 35, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼;
Sec. 36, N½NW¼.
T. 7 N., R. 3 E.,
Sec. 28, SE¼SE¼;
Sec. 33, E½NE¼;
Sec. 34, SW¼NW¼, N½SW¼, SE¼SW¼.
T. 6 N., R. 4 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lot 7, S½NE¼, E½SW¼, SE¼;
Secs. 7 to 12, inclusive;
Sec. 13, N½, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Secs. 14 to 17, inclusive;
Sec. 18, lots 1 to 4, inclusive, NE¼, E½W½, E½SE¼;
Sec. 19, NE¼NE¼, N½SE¼, SE¼SE¼;
Sec. 20, N½, NE¼SE¼;
Sec. 21;
Sec. 22, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 23, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 24, E½NE¼;
Sec. 28, S½NE¼, E½SE¼;
Sec. 30, lots 2 and 3, NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.
T. 7 N., R. 4 E.,
Sec. 13, lots 3 and 4;
Sec. 24, N½NE¼, SE¼NE¼, NE¼SE¼.
T. 6 N., R. 5 E.,
Secs. 1 to 12, inclusive;
Sec. 13, N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 14 to 17, inclusive;
Sec. 18, lots 1 to 4, inclusive, NE¼, E½W½, N½SE¼, SW¼SE¼;
Sec. 19, lots 1 and 2, NW¼NE¼, NE¼NW¼;
Sec. 20, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 21, NE¼, N½NW¼, N½SE¼, SE¼SE¼;
Sec. 22, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 23, W½NE¼, W½, SE¼;
Sec. 24, W½NE¼, NW¼;
Sec. 25, NW¼SW¼;
Sec. 26, NW¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 28, NE¼NE¼.
T. 7 N., R. 5 E.,
Secs. 13 to 18, inclusive;
Sec. 19, lots 1, 2, and 3, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, E½, NE¼NW¼;
Sec. 32, N½NE¼, SE¼NE¼, NE¼SE¼;
Secs. 33 to 36, inclusive.
T. 5 N., R. 6 E.,
Sec. 21, NE¼NE¼;
Sec. 22, lot. 1.
T. 6 N., R. 6 E.,
Sec. 3, lots 1, 2, and 3;
Sec. 4, N½NE¼, SE¼NE¼, NE¼NW¼, E½SE¼, in part unsurveyed;
Sec. 5, W½NE¼, NW¼, N½SW¼, SW¼SW¼, NW¼SE¼, unsurveyed;
Sec. 6;
Sec. 7, lots 1 to 4, inclusive, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 17, E½NE¼;
Sec. 18, lots 1 to 4, inclusive, NW¼NE¼, S½NE¼, E½W½, W½SE¼;
Sec. 19, lots 1 and 2, E½NW¼.
T. 7 N., R. 6 E.,
Secs. 15 to 22, inclusive;
Secs. 27 and 28;
Sec. 29, N½, N½SE¼, SE¼SE¼;
Sec. 30, lot 2, that part lying in the W½, lots 3, 4, 6, 8, and 9, NE¼NE¼, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 31, lots 1 to 4, inclusive, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 32, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 33, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 34.
T. 7 N., R. 1 W.,
Sec. 5, SW¼NW¼, SW¼, S½SE¼;
Sec. 6, lots 4 and 5, S½NE, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 7, lot 4, E½NE¼, SE¼SW¼, NE¼SE¼;
Sec. 8, N½NE¼, W½, NW¼SE¼;
Sec. 9, SW¼NE¼, NW¼NW¼, S½NW¼, NE¼SW¼, SE¼;
Sec. 10, SW¼NE¼, S½NW, S½;
Sec. 11, NE¼, SE¼NW¼, S½;
Sec. 12, NW¼SW¼, S½SW¼;
Sec. 13, NW¼NE¼, S½NE¼, NE¼NW¼, E½SE¼;
Sec. 14, N½NW¼;
Sec. 15, NE¼NE¼;
Sec. 18, lot 1, NW¼NE¼, S½NE¼, NE¼NW¼.
T. 8 N., R. 1 W.,
Sec. 13, lots 1 and 2;
Sec. 15, lot 2;
Sec. 21, lot 1, E½SE¼;
Sec. 22, lot 1, NE¼NW¼, SW¼NW¼, W½SW¼;
Sec. 24, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 25, N½N½;
Sec. 26, NE¼NE¼, NW¼NW¼;
Sec. 27, NE¼NE¼, N½NW¼.
T. 7 N., R. 2 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, NW¼SW¼, S½SW¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, NE¼SW¼, SE¼;
Sec. 3, lots 1 to 4, inclusive, SE¼NE¼, S½NW¼;
Sec. 4, lots 1 and 2, S½NE¼, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 5, SE¼;
Sec. 6, lot 7, SE¼SW¼;
Sec. 7, lot 1, NW¼NE¼, S½NE¼, E½NW¼, SE¼;
Sec. 8, NE¼, E½NW¼, S½;
Sec. 9, S½;
Sec. 11, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 12, SW¼NE¼, W½, SE¼;
Sec. 13, N½NE¼;
Sec. 14, S½SW¼;
Sec. 15, S½S½;
Sec. 16, NE¼NE¼, W½SW¼;
Sec. 17, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 19, lots 3 and 4, E½SW¼, SE¼;
Sec. 20, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 21, N½, SW¼ N½SE¼;
Sec. 22, N½, N½S½;
Sec. 23, N½, NW¼SW¼, N½SE¼;
Sec. 24, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 25, NE¼, NE¼NW¼.
T. 8 N., R. 2 W.,
Sec. 34, lots 1, 2, and 3;
Sec. 35, lots 1, 3, and 4, S½SE¼;
Sec. 36, lot 4, S½SW¼, SW¼SE¼.

The area described aggregates 90,063 acres, more or less, all of which are classified as nonphosphate lands.

Dated: July 29, 1969.

ARTHUR A. BAKER,
Acting Director.

[F.R. Doc. 69-9145; Filed, Aug. 4, 1969; 8:47 a.m.]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

By notice in the FEDERAL REGISTER of February 25, 1969, at page 2582, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by notices in the FEDERAL REGISTER on April 2 (pp. 6018–19), May 6 (p. 7338), June 3 (pp. 8713–14), and June 28 (pp. 10007–8).

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 June 28, 1969:

GEORGIA

Muscogee County

Columbus, *Columbus Historic District*, Bounded by Ninth Street on the north, Fourth Street on the south, Fourth Avenue on the east, and the Chattahoochee River on the west.

Columbus, *Columbus Iron Works*, 901 Front Avenue.

Columbus, *Goetchius-Wellborn House*, 405 Broadway.
Columbus, *Joseph House*, 828 Broadway.
Columbus, *Octagon House*, 527 First Avenue.
Columbus, *Walker-Peters-Langdon House*, 716 Broadway.

Columbus, *Wells-Bagley House*, 22 Sixth Street.

KENTUCKY

Fayette County

Lexington, *West High Street Historic District*, North side of the 100, 200, and 300 blocks of West High Street.

MISSOURI

Chariton County

Keytesville, *Hill Homestead*, 100 West North Street.

Gasconade County

Bem vicinity, *Peenie Archeological Petroglyph Site*, Center NE¼, SE¼, sec. 36, T. 41 N, R. 5 W.

Mississippi County

Wolf Island vicinity, *Beckwith's Fort Archeological Site*, SE¼, sec. 29, T. 24, N, R. 17 E.

Moniteau County

Sandy Hook vicinity, *Geiger Archeological Site* NW¼, sec. 11, T. 46 N, R. 14 W.

Montgomery County

Big Spring vicinity, *Pinnacle Lake Rockshelter*, NE¼, SE¼, sec. 24, T. 47 N, R. 5 W.

New Madrid County

New Madrid vicinity, *Lilbourn Fortified Village Archeological Site*, SE¼, Survey 28, W¼, Survey 712, SW¼, SW¼, Survey 711, T. 22 N, R. 14 E.

Pemiscot County

Steele vicinity, *Denton Mound and Village Archeological Site*, SW¼, sec. 20, T. 17 N, R. 11 E.

Phelps County

Yancy Mills vicinity, *Gourd Creek Cave Archeological Site*, SE¼, NW¼, sec. 19, T. 36 N., R 8 W.

St. Charles County

St. Charles, *Stone Row*, 314-330 South Main Street.

Ste. Genevieve County

Ste. Genevieve vicinity, *Common Field Archeological Site*. N½, SW¼, sec. 35, T. 38 N., R. 9. E.

Warren County

Marthasville vicinity, *Callaway (Flanders) House*, 1 mile south of Marthasville on Mo. 94.

NEW YORK

Suffolk County

Montauk vicinity, *Montauk Point Lighthouse*.

RHODE ISLAND

Newport County

Newport, *Miantonomi Memorial Park*, Bounded on the south by Admiral Kalbfuss Road, on the west by Girard Avenue, on the north by property of the Newport Housing Authority, and on the east by Hillside Avenue.

SOUTH CAROLINA

Charleston County

Charleston, *Fireproof Building*, 100 Meeting Street.

Clarendon County

Summerton vicinity, *Santee Indian Mound and Fort Watson*, south of Summerton off U.S. 301.

Kershaw County

Camden, *Fort Camden*, southern area of Camden, De Kalb Township.

VIRGINIA

Loudoun County

Leesburg vicinity, *Waterford Historic District*, Va. 665, 7 miles northwest of Leesburg. A pentagonal-shaped area following topographical features; measuring, from the intersection of Main Street and Second Street, 0.9 mile to the northeast, 1.4 miles to the southeast, 1.2 miles to the southwest, 1.2 miles to the west, and 0.9 mile to the northwest.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology and Historic Preservation.

[F.R. Doc. 69-9122; Filed, Aug. 4, 1969; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

August 1969 CCC Monthly Sales List

Notice to buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

1. The U.S. Department of Agriculture announced the minimum prices at which Commodity Credit Corporation (CCC) commodity holdings are available for sale, beginning at 3 p.m., e.d.t., on July 31, 1969, and, subject to amendment, continuing until superseded by the September Monthly Sales List.

The following commodities are available: Cotton (upland and extra long staple), wheat, corn, oats, barley, flaxseed, rye, rice, grain sorghum, peanuts, tung oil, cottonseed meal, butter, and nonfat dry milk.

With the 1969 crop marketing year beginning August 1 for rice and cotton, the August list includes formula minimum pricing for these commodities based on 1969 price-support loan rates.

Information on the availability of commodities stored in CCC bin sites may be obtained from Agricultural Stabilization and Conservation Service State offices shown at the end of the sales list; and for commodities stored at other locations, the information may be attained from ASCS commodity and grain offices also shown at the end of the list.

Corn, oats, barley, or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

2. In the following listing of Commodities and sales prices or method of sales, "unrestricted use" applies to sales which permit either domestic or export use and "export" applies to sales which require export only. CCC reserves the right to determine the class, grade, quality, and available quantity of commodities listed for sale.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

3. Interest rates per annum under the CCC Export Credit Sales Program (Announcement GSM-4) for August 1969 are 6⅜ percent for U.S. bank obligations and 7⅜ percent for foreign bank obligations. Commodities now eligible for financing under the Export Credit Sales Program include oats, wheat, wheat flour, barley, bulgur, corn, cornmeal, grain sorghum, upland and extra long staple cotton, milled and brown rice, tobacco, cottonseed oil, raisins, soybean oil, dairy products, tallow, lard, breeding cattle, rye, and cottonseed meal. Commodities purchased from CCC may be financed for export as private stocks under Announcement GSM-4.

Information on the CCC Export Credit Sales Program and on commodities available under Title I, Public Law 480, private trade agreements, and current information on interest rates and other phases of these programs may be obtained from the Office of the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

4. The following commodities are currently available for new and existing barter contracts: Upland cotton and tobacco. In addition, private stocks of corn, grain sorghum, barley (other than malting barley), oats, wheat, and wheat flour, and milled and brown rice, under Announcement PS-1, as amended; tobacco under Announcement PS-3; cottonseed oil and soybean oil under Announcement PS-2; and upland and extra long staple cotton under Announcement PS-4; and inedible tallow and grease under Announcement PS-5; are eligible for programing in connection with barter contracts covering procurement for Federal agencies that will reimburse CCC. (However, Hard Red Winter

13 percent protein or higher, Hard Red Spring 14 percent protein or higher, Durum wheats, and flour produced from these wheats may not be exported under barter through west coast ports.) Further information on private-stock commodities may be obtained from the Office of the Assistant Sales Manager, Barter, Export Marketing Service, USDA, Washington, D.C. 20250.

5. The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where sales are for export, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchase from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in following list. The New Orleans ASCS Commodity Office has withdrawn Announcement NO–C–32 (Sale of Upland Cotton for Unrestricted Use). Upland Cotton is available for sale for unrestricted use under other CCC announcements.

6. Commodity Credit Corporation reserves the right to amend from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sale contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective offerer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the Monthly Sales List.

7. On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal, or resident agent upon whom service of judicial process may be had.

Prospective buyers for export should note that generally, sales to U.S. Government agencies, with only minor exceptions, will constitute domestic unrestricted use of the commodity.

Commodity Credit Corporation reserves the right, before making any sales, to define or limit export areas.

Exports to certain countries are regulated under the Export Control Act of 1949. These restrictions also apply to any commodities purchased from the Commodity Credit Corporation whether sold for restricted or unrestricted use. Countries and commodities are specifically listed in the U.S. Department of Commerce Comprehensive Export Schedule. Additional information is available from the Bureau of International Commerce or from the field offices of the Department of Commerce.

SALES PRICE OR METHOD OF SALE

WHEAT, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1969 price-support loan rate [2] for the class, grade, and protein of the wheat plus the markup shown in C below applicable to the type of carrier involved.

B. *Nonstorable.* At not less than market price, as determined by CCC.

C. *Markups and examples (dollars per bushel in-store).* [1]

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.05½	$0.03	Minneapolis—No. 1 DNS ($1.57) 115 percent +$0.03; $1.84. Portland—No. 1 SW ($1.45) 115 percent +$0.03; $1.70. Kansas City—No. 1 HRW ($1.45) 115 percent +$0.03; $1.70. Chicago—No. 1 RW ($1.46) 115 percent +$0.03; $1.71.

Export.

A. CCC will sell limited quantities of Hard Red Winter, Durum, and Hard Red Spring wheat at west coast ports at domestic market price levels for export under Announcement GR–345 (Revision IV, Oct. 30, 1967, as amended) as follows:

(1) Offers will be accepted subject to the purchasers' furnishing the Portland ASCS Branch Office with a Notice of Sale containing the same information (excluding the payment or certificate acceptance number) as required by exporters who wish to receive an export payment under GR–345. The Notice of Sale must be furnished to the Commodity Office within 5 calendar days after the date of purchase.

(2) Sales will be made only to fill dollar market sales abroad and exporter must show export from the west coast to a destination west of the 170th meridian, west longitude, and east of the 60th meridian, east longitude, and to ports on the west coast of Central and South America. Dollar sales shall mean sales for dollars and sales financed with CCC credit.

Available. Chicago, Kansas City, Minneapolis, and Portland ASCS offices.

RICE, ROUGH

Unrestricted use.

Market price but not less than 1969 loan rate plus 5 percent, plus 13 cents per hundredweight, basis in-store.

Available. Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

CORN, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Market price as determined by CCC, but not less than 115 percent of the applicable 1968 price-support loan rate [2] for the class, grade, and quality of the corn plus the markup shown in C of this unrestricted use section.

B. *General sales.*

1. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1968 price-support rate [2] (published loan rate plus 19 cents per bushel) for the class, grade, and quality of the corn, plus the markup shown in C of this unrestricted use section.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store [1] basis No. 2 yellow corn 14 percent M.T. 2 percent F.M.).*

Markup in-store	Examples
$0.17½	Feed grain program domestic PIK certificate minimums: McLean County, Ill. ($1.09+$0.02½) 115 percent +$0.17½; $1.46½. Agricultural Act of 1949; statutory minimums: McLean County, Ill. ($1.09+$0.02½ +$0.19); 105 percent +$0.17½; $1.54½.

Available. Chicago, Kansas City, Minneapolis, and Portland ASCS grain offices.

GRAIN SORGHUM, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1968 price-support loan rate [2] for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*

1. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1968 price-support rate [2] (published loan rate plus 34 cents per hundredweight) for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per hundredweight in-store [1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.29¼	$0.25¼	Feed grain program domestic PIK certificate minimums: Hale County, Tex. ($1.63) 115 percent +$0.29¼; $2.17¾. Kansas City, Mo. ($1.81) 115 percent +$0.25¼; $2.34¼. Agricultural Act of 1949; statutory minimums: Hale County, Tex. ($1.63+$0.34); 105 percent +$0.29¼; $2.36¼. Kansas City, Mo. ($1.81+$0.34); 105 percent +$0.25¼; $2.51¼.

Available. Kansas City, Chicago, Minneapolis, and Portland ASCS grain offices.

BARLEY, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1969 price-support loan rate [2] for the class, grade, and quality of the barley plus the markup shown in C of this unrestricted use section.

B. *General sales.*

1. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1969 price-support rate [2] (published loan rate plus 13 cents per bushel) for the class, grade, and quality of the barley, plus the markup shown in C of this unrestricted use section.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store [1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.05½	$0.03	Feed grain program domestic PIK certificate minimums: Cass County, N. Dak. ($0.78) 115 percent +$0.05½; $0.95½. Minneapolis, Minn. ($1.04) 115 percent +$0.03; $1.23. Agricultural Act of 1949 statutory minimums: Cass County, N. Dak. ($0.78+$0.13); 105 percent +$0.05½; $1.01½. Minneapolis, Minn. ($1.04 + $0.13); 105 percent +$0.03; $1.26.

Available. Kansas City, Chicago, Minneapolis, and Portland ASCS grain offices.

OATS, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than 115 percent of the applicable 1969 price-support rates [2] for the class, grade, and quality of the oats plus the markup shown in B below.

B. *Markup and example (dollars per bushel in-store [1] Basis No. 2 XHWO).*

Markup in-store	Example
$0.06¼	Redwood County, Minn. ($0.60+$0.03 quality differential); 115 percent +$0.06¼; $0.78¼.

C. *Nonstorable.* At not less than the market price as determined by CCC.

Available. Kansas City, Chicago, Minneapolis, and Portland ASCS grain offices.

RYE, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 115 percent [2] of the applicable 1969 price-support rate for the class, grade, and quality of the grain plus the markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store [1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.05½	$0.03	Agriculture Act of 1949; statutory minimums: Rollete County, N. Dak. ($0.86); 115 percent +$0.05½; $1.04½. Minneapolis, Minn. ($1.22); 115 percent +$0.03; $1.44.

C. *Nonstorable.* At not less than market price as determined by CCC.

Available. Chicago, Kansas City, Portland, and Minneapolis ASCS grain offices.

COTTON, UPLAND

Unrestricted use.

Competitive offers under the terms and conditions of Announcement NO–C–31 (Revised), (Disposition of Upland Cotton—In Liquidation of Rights in a Certificate Pool, Against the "Shortfall," and Under Barter Transactions). Cotton may be acquired at the highest price offered, but not less than the higher of (1) the market price as determined by CCC, or (2) a minimum price determined by CCC which will be based on 110 percent of the price support loan rate for Middling 1 inch cotton at average location at the time of delivery, plus reasonable carrying charges for the month in which the sale is made. Carrying charges for August are 90 points per pound. In no event will the price for any cotton be less than 120 points (1.2 cents) per pound above the loan rate for such cotton at the time of delivery.

Export.

CCC disposals for barter. Competitive offers under the terms and conditions of Announcements CN–EX–28 (Acquisition of Upland Cotton for Export Under the Barter Program) and NO–C–31, as amended, at the prices described in the preceding paragraph B.

COTTON, EXTRA LONG STAPLE

Unrestricted use.

Competitive offers under the terms and conditions of Announcement NO–C–6 (Revision 2) and Announcement NO–C–10 (Revised). Under these announcements extra long staple cotton will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current loan rate for such cotton plus reasonable carrying charges, or (b) the market price as determined by CCC. Notwithstanding the foregoing, if and when a "shortfall" for extra long staple cotton is announced by CCC, cotton will be available under Announcements NO–C–6 and NO–C–10 in an amount not to exceed the shortfall at the market price, as determined by CCC.

COTTON, UPLAND OR EXTRA LONG STAPLE

Unrestricted use.

Competitive offers under the terms and conditions of Announcement NO–C–20 (Sale of Special Condition Cotton). Any such cotton (Below Grade, Sample Loose, Damaged Pickings, etc.) owned by CCC will be offered for sale periodically on the basis of samples representing the cotton according to schedules issued from time to time by CCC.

Availability information.

Sale of cotton will be made by the New Orleans ASCS Commodity Office. Sales announcements, related forms and catalogs for upland cotton and extra long staple cotton showing quantities, qualities, and location may be obtained for a nominal fee from that office.

COTTONSEED MEAL, BULK

Unrestricted use.

Competitive offers for meal located in Texas and Oklahoma under the terms and conditions of Announcement NO–CS–8. Delivery periods will commence in September.

Small quantities may be sold on competitive offers in any area if necessary to avoid deterioration or if storage cannot be obtained on a basis satisfactory to CCC.

Export:

Competitive offers, but not less than $45 per ton f.o.b. origin location under the terms and conditions of Announcement NO–CS–7. Sales will be made only for export to Far East countries having ports on the Pacific Ocean or on a sea tributary thereto (including Australia and New Zealand).

Available. New Orleans ASCS Commodity Office.

PEANUTS, SHELLED OR FARMERS STOCK

Restricted use sales.

When stocks are available in their area of responsibility, the quantity, type, and grade offered are announced in weekly lot lists or invitations to bid issued by the following:

GPA Peanut Association, Camilla, Ga.
Peanut Growers Cooperative Marketing Association, Franklin, Va.
Southwestern Peanut Growers' Association, Gorman, Tex.

Terms and conditions of sale are set forth in Announcement PR–1 of July 1, 1966, as amended, and the applicable lot list.

1. Shelled peanuts of less than U.S. No. 1 grade may be purchased for foreign or domestic crushing.

2. Farmers stock: Segregation 1 may be purchased and milled to produce U.S. No. 1 or better grade shelled peanuts which may be exported. The balance of the kernels including any graded peanuts not exported must be crushed domestically.

Sales are made on the basis of competitive bids each Wednesday by the Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250, to which all bids must be sent.

TUNG OIL

Unrestricted use.

Sales are made periodically on a competitive bid basis. Bids are submitted to the Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250.

The quantity offered and the date bids are to be received are announced to the trade in notices of Invitations to Bid, issued by the National Tung Oil Marketing Cooperative, Inc., Poplarville, Miss. 39470.

Terms and conditions of sale are as set forth in Announcement NTOM–PR–4 of April 6, 1967, as amended, and the applicable Invitation to Bid.

Bids will include, and be evaluated on the basis of, price offered per pound f.o.b. storage location. For certain destinations, CCC will as provided in the Announcement, as amended, refund to the buyer a "freight equalization" allowance.

Copies of the Announcement or the Invitation may be obtained from the Cooperative or Oilseed and Special Crops Division, ASCS, Telephone Washington, D.C., area code 202, DU 8-3901.

FLAXSEED, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than 105 percent of the applicable 1969 price-support rate[2] for the grade and quality of the flaxseed plus the applicable markup.

B. *Markups and example (dollars per bushel in-store No. 1, 9.1–9.5 percent moisture).*

Markup per bushel received by—		Example of minimum prices—terminal and price
Truck	Rail or barge	
$0.07½	$0.03¼	Minneapolis, Minn. ($3.01); 105 percent + $0.03¼; $3.19¼.

C. *Nonstorable.* At not less than domestic market price as determined by CCC.

Available. Through the Minneapolis ASCS Branch Office.

DAIRY PRODUCTS

Sales are in carlots only in-store at storage location of products.

Submission of offers.

Submit offers to the Minneapolis ASCS Commodity Office.

NONFAT DRY MILK

Unrestricted use.

Announced prices, under MP-14: Spray process, U.S. Extra Grade, 25.40 cents per pound packed in 100-pound bags and 25.65 cents per pound packed in 50-pound bags.

Export.

Announced prices, under MP-23, pursuant to invitations issued by Minneapolis ASCS Commodity Office. Invitations will indicate the type of export sales authorized, the announced price and the period of time such price will be in effect.

BUTTER

Unrestricted use.

Announced prices, under MP-14: 75.25 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico, 74.5 cents per pound—Washington, Oregon, and California. All other States 74.25 cents per pound.

FOOTNOTES

[1] The formula price delivery basis for bin-site sales will be f.o.b.

[2] Round product up to the nearest cent.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Kansas City ASCS Commodity Office, 8930 Ward Parkway (Post Office Box 205), Kansas City, Mo. 64141. Telephone: Area Code 816, Emerson 1-0860.

Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming (domestic and export). California (domestic only), Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia (export only).

Branch Office—Chicago ASCS Branch Office, 226 West Jackson Boulevard, Chicago, Ill. 60606. Telephone: Area Code 312, 353-6581.

Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia (domestic only).

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn. 55415. Telephone: Area Code 612, 725-2051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin (domestic and export).

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland, Oreg. 97205. Telephone: Area Code 503, 226-3361.

Idaho, Oregon, Utah, and Washington (domestic and export sales), California (export sales only).

PROCESSED COMMODITIES OFFICE (ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn. 55435. Telephone: Area Code 612, 725-3200.

COTTON OFFICE (ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112. Telephone: Area Code 504, 527-7766.

GENERAL SALES MANAGER OFFICES

Representative of General Sales Manager, New York Area: Joseph Reidinger, Federal Building, Room 1759, 26 Federal Plaza, New York, N.Y. 10007. Telephone: Area Code 212, 264-8439, 8440, 8441.

ASCS STATE OFFICES

Illinois, Room 232, U.S. Post Office and Courthouse, Springfield, Ill. 62701. Telephone: Area Code 217, 525-4180.

Indiana, Room 110, 311 West Washington Street, Indianapolis, Ind. 46204. Telephone: Area Code 317, 633-8521.

Iowa, Room 937, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309. Telephone: Area Code 515, 284-4213.

Kansas, 2601 Anderson Avenue, Manhattan, Kans. 66502. Telephone: Area Code 913, JE 9-3531.

Michigan, 1405 South Harrison Road, East Lansing, Mich. 48823. Telephone: Area Code 517, 372-1910.

Missouri, I.O.O.F. Building, 10th and Walnut Streets, Columbia, Mo. 65201. Telephone: Area Code 314, 442-3111.

Minnesota, Room 230, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, Minn. 55101. Telephone: Area Code 612, 725-7651.

Montana, Post Office Box 670, U.S.P.O. and Federal Office Building, Bozeman, Mont. 59715. Telephone: Area Code 406, 587-4511, Ext. 3271.

Nebraska, Post Office Box 793, 5801 O Street, Lincoln, Nebr. 68501. Telephone: Area Code 402, 475-3361.

North Dakota, Post Office Box 2017, 15 South 21st Street, Fargo, N. Dak. 58103. Telephone: Area Code 701, 237-5205.

Ohio, Room 116, Old Federal Building, Columbus, Ohio 43215. Telephone: Area Code 614, 469-6814.

South Dakota, Post Office Box 843, 239 Wisconsin Street SW., Huron, S. Dak. 57350. Telephone: Area Code 605, 352-8651, Ext. 321 or 310.

Wisconsin, Post Office Box 4248, 4601 Hammersley Road, Madison, Wis. 53711. Telephone: Area Code 608, 254-4441, Ext. 7535.

AUTHORITY: Issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, 307, 76 Stat. 614–617; 7 U.S.C. 1441 (note).

Signed at Washington, D.C., on July 30, 1969.

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

[F.R. Doc. 69-9163; Filed, Aug. 4, 1969; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CIBA PHARMACEUTICAL CO.

Notice of Withdrawal of Petition for Food Additive Metoserpate Hydrochloride

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), E. R. Squibb & Sons, Inc., Three Bridges, N.J. 08887, has withdrawn its petition (32–738V), notice of which was published in the FEDERAL REGISTER of March 6, 1969 (34 F.R. 4898), proposing that § 121.324 *Metoserpate hydrochloride* (21 CFR 121.324) be amended to provide for the safe use of metoserpate hydrochloride at a level of 0.03 percent in the drinking water of replacement chickens with the limitation that treated birds not be slaughtered within 96 hours of treatment.

The petition was filed by the Gland-O-Lac Co., Division of CIBA Corp., Omaha, Nebr. 68101, and the rights to the petition were subsequently transferred to E. R. Squibb & Sons, Inc.

Dated: July 29, 1969.

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

[F.R. Doc. 69-9117; Filed, Aug. 4, 1969; 8:45 a.m.]

MERCK AND CO., INC.

Notice of Withdrawal of Petition for Food Additives Thiabendazole, Penicillin, and Streptomycin

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Merck Sharp and Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, N.J. 07065, has withdrawn its petition (PC 38–222V), notice of which was published in the FEDERAL REGISTER of December 21, 1967 (32 F.R. 20670), proposing that

§ 121.260 *Thiabendazole* be amended to provide for the safe use in swine feed of thiabendazole in combination with penicillin and streptomycin added for growth promotion and feed efficiency.

Dated: July 29, 1969.

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

[F.R. Doc. 69-9118; Filed, Aug. 4, 1969; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT STANDARDS DISTRICT OFFICE AT HARRISBURG-YORK STATE AIRPORT, NEW CUMBERLAND, PA.

Notice of Redesignation

Notice is hereby given that the General Aviation District Office at the Harrisburg-York State Airport, New Cumberland, Pa., has been redesignated as a Flight Standards District Office on July 1, 1969. While continuing to provide services to general aviation, this office, in addition, has assumed responsibilities for services to air carriers. Communications to the Flight Standards District Office should be addressed as follows:

Flight Standards District Office No. 61, Department of Transportation, Federal Aviation Administration, Harrisburg-York State Airport, Administration Building, New Cumberland, Pa. 17070.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in New York, N.Y., on July 25, 1969.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 69-9127; Filed, Aug. 4, 1969; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

CESIUM-137

Pricing

On June 5, 1968, the Commission published in the FEDERAL REGISTER for public comment, notice of intent to increase its prices for cesium-137. The present and proposed prices were as follows:

Present	*Proposed*
0-10,000 curies—$0.50/Ci	0-50,000 curies—$3.00/Ci
10,001-50,000—04.45	50,001-200,000—2.00
50,001-200,000—0.35	Over 200,000—0.85
Over 200,000—0.125	

The Commission has now completed its review of the public comment received. Also, as a result of certain process improvements and efficiencies which have been developed and adopted, current AEC full costs for cesium-137 production and distribution have been reduced substantially from the costs which underlay the proposed increased price in the June 5, 1968, FEDERAL REGISTER notice. Based on the foregoing considerations, as well as, current investments and efforts of industry to develop sizable markets for cesium-137, as evidenced by a rapidly increasing market demand, and the fact that the cesium-137 production capacity achievable in existing AEC facilities could result in costs approaching the present price, the Commission has now determined to retain its present cesium-137 prices as set forth above, subject to reexamination in about 2 years.

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

Dated at Washington, D.C., this 30th day of July 1969.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 69-9134; Filed, Aug. 4, 1969; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18650; Order 69-7-124]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority July 24, 1969.

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 the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated July 10, 1969, names additional specific commodity rates, as set forth in the attachment hereto, which reflect significant reductions from the general cargo rates. In addition, rates for a new commodity description, "Incense and/or Incense Products," have been specified.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it tentatively is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 20745,[1] R-86 through R-88, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

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] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-9160; Filed, Aug. 4, 1969; 8:48 a.m.]

[1] Filed as part of original document.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18414; FCC 69-823]

RICHARD JOHNSON AND SOUTHWESTERN BELL TELEPHONE CO.

Memorandum Opinion and Order Instituting a Hearing

1. The Commission has before it a formal complaint filed December 30, 1968, by Richard Johnson (complainant) pursuant to section 208 of the Communications Act of 1934, as amended, against the Southwestern Bell Telephone Co. (Southwestern) requesting compensatory and punitive damages in the amount of $5,000 for alleged violations of sections 201(a) and 202(a) of the Act. It is alleged that Southwestern failed to furnish telephone service to complainant upon reasonable request therefor and illegally terminated complainant's telephone service. We also have before us an answer to the complaint and a motion to dismiss filed by Southwestern on February 3, 1969, and a number of written statements submitted by both complainant and Southwestern subsequent to February 3, 1969, in response to letters from the Commission.

2. The pertinent facts appear to be about as follows: On October 25, 1967, Southwestern, at complainant's request, installed telephone service at complainant's residence, in Pittsburg, Kans. Complainant wanted the service in contemplation that it would be used for both interstate and intrastate calls. At this time a deposit was not requested of complainant. Southwestern's records indicated that complainant was a single, employed male. A short time after this installation Southwestern learned that complainant was a minor, living with his mother, Mrs. Ruth Johnson Cooper. Mrs. Cooper had been a former subscriber with whom Southwestern alleges that it had had credit and payment problems.[1] On October 27, 1967, Southwestern orally notified complainant that the company would require a deposit in an

[1] Mrs. Cooper's past indebtedness for services rendered by Southwestern was allegedly in an amount in excess of $100 and Southwestern states that it could not collect this amount despite repeated attempts to do so. It appears that these services were provided more than 3 years ago, and any action for the amount owed to the telephone company apparently was barred by the Kansas Statute of Limitations.

amount of $100 as a condition to the continuation of telephone service. Southwestern states that "it was these subsequently acquired facts which precipitated the deposit request". On the same day, October 27, 1967, complainant was orally notified by Southwestern that the telephone service would be terminated if such a deposit was not made. No written notice of intent to terminate was given to complainant by Southwestern. Southwestern states that it arrived at the figure of $100 as the amount of deposit to demand of complainant by allocating $11.30 plus taxes to telephone exchange service and the rest of the $100 to estimated toll charges. No attempt was made to distinguish between estimated interstate tolls and estimated intrastate tolls. Upon complainant's inability or refusal to make the $100 deposit the telephone service was terminated on November 3, 1967. Thereafter complainant filed informal complaints with us which were not satisfied by Southwestern and the formal complaint herein followed on December 30, 1968. After the filing of the formal complaint Southwestern installed service for complainant's mother, Mrs. Cooper, without a deposit on February 28, 1969, and, by letter dated March 27, 1969, Southwestern states that it will "consider" reestablishing complainant's service without a deposit if requested. Complainant states by letter of April 14, 1969, that he will request it.

3. Southwestern contends that (a) the complaint fails to allege that the matters complained of involve interstate service, but rather shows on its face that it is intrastate telephone exchange service over which this Commission has no jurisdiction; (b) documents filed with the District Court of Crawford County, Kans., relative to a complaint brought by complainant against Southwestern demonstrates that the complainant is an unemancipated minor who has no standing to pursue this complaint in his own name without benefit of Next Friend or Guardian; and (c) that the Commission has no power to grant the requested punitive damages and, as to compensatory damages, the allegations of damages are not stated with the certainty required by section 1.723 of the Commission's rules. Accordingly, Southwestern moves the Commission to dismiss the complaint pursuant to § 1.731(a) of the rules.

4. We shall first rule on Southwestern's contention that we lack jurisdiction over the subject matter of this complaint. We agree that, insofar as complainant was denied "telephone exchange service," we have no jurisdiction. (See section 221 (b) of the Act.) However, we believe that more than "telephone exchange service" is involved here. Complainant was denied facilities that would enable him to make and receive interstate toll calls. He was not denied merely "telephone exchange service." During the period pertinent to the complaint Southwestern offered interstate telephone toll service through Tariff FCC No. 263 of American Telephone and Telegraph Co. This was a service offering of interstate telephone service whereby the telephone furnished for "telephone exchange service" was also furnished for interstate toll service. We think it beyond dispute that complainant desired facilities that could be used for both interstate toll service and telephone exchange service and that he was denied such interstate service by Southwestern. Southwestern as much as concedes this when it states that an unspecified portion of the $100 deposit request was to cover anticipated interstate toll usage by complainant. We therefore conclude that we have jurisdiction over the subject matter of this complaint to the extent that it involves the denial of interstate telephone toll service.

5. We turn next to Southwestern's contention that the complaint must be dismissed because complainant is an unemancipated minor. This argument is untenable. Section 208 of the Act permits "any person" to file a complaint. Section 3(i) states that the word "person" includes "an individual," among others. We find no support for the position that complainant is not a "person" within the meaning of the Communications Act. In any event, if any damages were to be awarded to complainant for violation of the Act, the Commission has ample authority to condition any such order, if necessary, upon payment to a duly appointed Guardian or Next Friend.

6. Southwestern's contention that the Commission has no power to grant punitive damages for violation of the Act raises a novel question. Section 206 of the Act states that when a carrier violates any provision of the Act "such common carrier shall be liable to the person or person injured thereby for the full amount of damages sustained in consequence of any such violation." There appears to be no provision in the Act that prohibits us from awarding punitive damages where justified by the evidence unless the above-quoted language in section 206 is to be so construed. Punitive damages are generally recognizable under common law and section 414 of the Act provides that "nothing in this Act shall in any way abridge or alter the remedies now existing at common law." Moreover, punitive damages have been awarded by a Federal trial court upon a finding that a railroad had violated section 3(1) of the Interstate Commerce Act, which prohibits undue prejudice, by refusing to furnish certain passenger transportation to plaintiffs because of their race or color, Wright *v.* Chicago, B. & O.R., D.C. Ill. 223 F. Supp. 660 (1963). Section 202(a) of our Act outlawing undue discrimination is based upon the aforementioned section 3(1) of the Interstate Commerce Act and the above-cited case, which was not appealed, appears to be a precedent on the question before us. Section 207 of our Act provides that an aggrieved person may file a complaint for damages for violation of the Act by a carrier before either the Commission or a Federal court. It would thus appear that the Commission has the same powers as the courts have in awarding damages for violation of the Communications Act. For the foregoing reasons, we are not prepared to rule at this time that we cannot award punitive damages in cases where such award may be warranted by the facts. We believe that we should defer ruling on this question until after completion of the evidentiary record in this case and submission of briefs thereon by the parties.

7. Finally, we believe that the complaint is not legally defective for failure to be more specific as to the compensatory damages claimed. Under § 1.731(b) of our rules, Southwestern could have filed a motion that the allegations in the complaint be made more definite and certain as to the claim for damages. Southwestern elected not to do so. Moreover, complainant has the burden of proof as to damages and if Southwestern can make a proper showing that it is entitled to greater specificity as to complainant's damages claim in advance of the hearing, our prehearing procedures are available for this purpose.

8. In view of the foregoing, the Commission believes that an evidentiary hearing is warranted to determine whether Southwestern has failed or refused to furnish interstate communication service to complainant upon reasonable request therefor, or has subjected complainant to any undue or unreasonable prejudice or disadvantage, or both, and if so, what damages, if any, should be awarded to complainant. Also, the undisputed facts reveal a violation of AT&T's Tariff FCC No. 263 in that paragraph 2.4.3 of that tariff obligated Southwestern to give complainant a notice in writing before terminating his service. This was not done and Southwestern's failure to comply with the tariff constituted a violation of section 203(c) of the Act. Complainant does not raise this point, but we believe that we should do so on our own motion. Accordingly, the issues herein will include the question of what action, if any, should be taken regarding this violation of the Act.

9. *Accordingly, it is ordered*, That pursuant to sections 201, 202, 203, 206, 207, 208, and 403 of the Communications Act of 1934, as amended, a hearing shall be held in this proceeding at the Commission's Offices in Washington, D.C., at a time to be specified, and that an examiner to be designated to preside at the hearing shall upon the closing of the record prepare an initial decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282.

10. *It is further ordered*, That without in anyway limiting the scope of the proceeding, it shall include inquiry into the following:

(1) Whether the refusal by Southwestern to continue to provide interstate communications service to complainant except on the condition that the latter furnish the telephone company a $100 deposit to cover, in part, interstate tolls was a violation of section 201(a) or 202(a) of the Act or both;

(2) Whether complainant is entitled to any compensatory or punitive damages as a result of any violation of section 201(a) or 202(a) of the Act that may be found under the foregoing issue; and, if so, the amounts thereof.

(3) What action, if any, should be taken by the Commission for Southwestern's failure to provide complainant with written notice of termination of service in violation of the company's applicable tariff and section 203(c) of the Act?

11. *It is further ordered*, That Southwestern's motion to dismiss is denied, without prejudice.

12. *It is further ordered*, That Richard Johnson, Southwestern Bell Telephone Co., and the Chief, Common Carrier Bureau, are made parties to the proceeding.

13. *It is further ordered*, That the Secretary of the Commission shall send copies of this order by certified mail, return receipt requested, to Richard Johnson and Southwestern Bell Telephone Co., and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: July 29, 1969.

Released: July 31, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-9153; Filed, Aug. 4, 1969; 8:47 a.m.]

FEDERAL HOME LOAN BANK BOARD

[H. C. #30]

IMPERIAL CORPORATION OF AMERICA

Notice of Receipt of Application for Approval of Acquisition of Control of Summit Savings and Loan Association

JULY 31, 1969.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Imperial Corporation of America, San Diego, Calif., for approval of acquisition of control of the Summit Savings and Loan Association, Santa Rosa, Calif., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)), and § 584.4 of the regulations for Savings and Loan Holding Companies be effected by the exchange of at least 80 percent of the guarantee stock of Summit Savings and Loan Association for stock of Imperial Corporation of America. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.

[F.R. Doc. 69-9166; Filed, Aug. 4, 1969; 8:48 a.m.]

[1] Commissioner Robert E. Lee absent.

FEDERAL RESERVE SYSTEM

DOMINION BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)), by Dominion Bankshares Corp., which is a bank holding company located in Roanoke, Va., for the prior approval of the Board of the acquisition by Applicant of more than 80 percent of the voting shares of Southampton County Bank, Courtland, Va.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section 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 this section 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 it 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 Richmond.

Dated at Washington, D.C., this 29th day of July 1969.

By order of the Board of Governors.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 69-9141; Filed, Aug. 4, 1969; 8:47 a.m.]

HAWKEYE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)), by Hawkeye Bancorporation, which is a bank holding company located in Red Oak, Iowa, for the prior approval of the Board of the acquisition by Applicant of 87.6 percent of the voting shares of Mills County State Bank, Glenwood, Iowa.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section 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 this section 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 it 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 Chicago.

Dated at Washington, D.C., this 29th day of July 1969.

By order of the Board of Governors.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 69-9142; Filed, Aug. 4, 1969; 8:47 a.m.]

MAIN STATE BANK OF CHICAGO

Order Approving Acquisition of Bank's Assets

In the matter of the application of Main State Bank of Chicago for approval of acquisition of assets of Main State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Main State Bank of Chicago, Chicago, Ill., which is to be a State member bank of the Federal Reserve System, for the Board's prior approval of its acquisition of assets and assumption of deposit liabilities of Main State Bank, Chicago, Ill.

Notice of the proposed acquisition of assets and asumption of deposit liabilities, 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 furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed transaction,

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 acquisition of assets and assumption of deposit liabilities 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.

Dated at Washington, D.C., this 30th day of July 1969.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 69-9143; Filed, Aug. 4, 1969; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JULY 30, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 31, 1969, through August 9, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-9147; Filed, Aug. 4, 1969; 8:47 a.m.]

[812-2571]

INVESTORS COUNSEL, INC., AND CAPITAL SPONSORS, INC.

Notice of Filing and Order for Hearing of the Act, and Order of Temporary Exemption

JULY 28, 1969.

Notice is hereby given that Investors Counsel, Inc. ("Counsel") and Capital Sponsors, Inc. ("Sponsors"), 2727 Allen Parkway, Houston, Tex., the investment adviser and underwriter respectively of Capital Shares Inc., Capital Investors Growth Fund Inc., and Capital Income Fund Inc., all open-end investment companies registered under the Investment Company Act of 1940 (the "Act") (collectively the "Funds") have filed an application under sections 6(c) and 9(b) of the Act for an order exempting Counsel and Sponsors ("applicants") from the application of section 9(a) of the Act insofar as that section may be applicable to preclude Counsel from serving as investment adviser, and Sponsors from serving as underwriter of the Funds, by reason of the fact that International Systems and Controls Corp. ("ISC"), which owns all the voting securities, and 43 percent of the equity of Counsel, which, in turn, owns all the voting securities of Sponsors, has been convicted of four counts of an indictment relating to violations of Regulation T under section 7 of the Securities Exchange Act of 1934. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

On July 23, 1969, an indictment was returned in the U.S. District Court for the Southern District of New York charging violations of Regulation T by ISC and by First Hanover Corp. ("First Hanover") (a member of the New York Stock Exchange), its president, Alfred Lerner, and American Securities Co. ("Amsec") of Uruguay, and its president, Horacio Raggio. Two directors of ISC, Austin Wilson and J. T. Kenneally, were named as coconspirators but not as defendants. It was charged that, in 1966, ISC loaned money to Amsec with which it purchased shares of Holly Sugar Corp. ("Holly Sugar") through First Hanover on credit terms available to a foreign customer that were more liberal than would have been available to ISC as a domestic customer under Regulation T. Applicants state that the theory of the indictment was that Amsec was acting as agent for ISC (then known as Houston Oil Field Materials Corp.) in acquiring the Holly Sugar shares and that the arrangement was a device to avoid the requirements of Regulation T. ISC pleaded guilty to four out of nine counts of the indictment and the balance were dismissed as to it. Applicants state that the transactions forming the basis of the indictment occurred in 1966, prior to the acquisition of control by ISC of Counsel and of Sponsors; that no individual holding any office in or serving as a director of or employed by Counsel or by Sponsors or by ISC was indicted and that the two directors of ISC who were named as coconspirators hold no office in and are not involved in the operations of Counsel or Sponsors or the Funds; that ISC acted on advice of counsel in the transaction and that the case marked the first time that an alleged customer had been charged with a violation of Regulation T. ISC was convicted on July 24, 1969, and fined $10,000.

Section 9(a)(3) of the Act provides that any company affiliated with a person who has been convicted of a felony or misdemeanor involving the purchase or sale of any security is ineligible to serve or act in various capacities including that of investment adviser or underwriter of a registered open-end investment company. Accordingly section 9(a) prohibits Counsel and Sponsors from serving the funds as investment adviser or underwriter respectively. Applicants do not concede such section is applicable to this situation.

Section 9(b) of the Act provides that the Commission shall by order grant an exemption from the provisions of subsection (a) either unconditionally or on an appropriate temporary or other conditional basis if it is established that the prohibitions of subsection (a) are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant the exemption.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request: (1) A determination that section 9(a) does not apply to the circumstances of this case; (2) if (1) is not granted that, after notice and an opportunity for hearing, a final order be entered exempting applicants from the provisions of section 9(a); and (3) that an order be entered forthwith temporarily exempting applicants from the provisions of section 9(a) until the final determination of the application.

[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: Vice Chairman Robertson and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Martin and Governor Daane.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a public hearing on the aforesaid application under the applicable provisions of the Act and the rules of the Commission thereunder be held at a time and place to be fixed and before a hearing examiner to be designated by further order as provided by Rule 7 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission, on or before the 29th day of August 1969, his application pursuant to Rule 9(c) of the Commission's rules of practice. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or be heard will receive notice of the date and place of the hearing.

It is further ordered, That any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act, and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters are presented for consideration without prejudice to its specifying additional matters upon further examination:

(1) Whether, under the circumstances of this matter, the provisions of section 9(a) of the Act prohibit Counsel and Sponsors from serving or acting as investment adviser and underwriter respectively for the Funds.

(2) If the Commission determines (1) in the affirmative, whether an order exempting Counsel and Sponsors from the prohibitions of section 9(a) should be entered conditionally or unconditionally.

(3) Whether the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

It is further ordered, That at said hearing attention be given to the foregoing matters.

The Commission having considered the matter, and deeming it consistent with the public interest and the interest of investors to grant an interim and temporary exemption;

It is further ordered, That Counsel and Sponsors, be and they hereby are exempted forthwith, pursuant to section 9(b) of the Act, from the provisions of section 9(a) of the Act to the extent that such section may preclude them from serving or acting as investment adviser and underwriter respectively of Capital Shares, Inc., Capital Investors Growth Fund, Inc., and Capital Income Fund, Inc., open-end investment companies registered under the Act until the final determination of this application and any review thereof concluding the same: *Provided*, That this interim and temporary exemption is subject to the following conditions and limitations to which applicants have consented:

1. The right of Counsel and Sponsors so to serve and act for the Funds during such interim period shall be subject to the approval of the boards of directors (including a majority of the directors who have no affiliation with the Funds other than as directors) of the Funds respectively.

2. Any addition, as determined upon independent audit, by Counsel and Sponsors to their retained earnings during the period of effectiveness of the interim order shall be retained by Counsel and Sponsors as a surplus reserve until the final determination of this proceeding. If, upon such final determination, an exemption is denied and it is determined that the prohibition of section 9(a) of the Act applies to Counsel and Sponsors, then the question of how much, if any, of said reserve is to be retained by Counsel and Sponsors respectively and how much is to be paid to each Fund, in proportion to the contribution of each Fund to the reserve, shall be determined by the directors (including a majority of the unaffiliated directors) of the Funds respectively, subject to the approval of the shareholders of the Funds at the next annual or special meeting of shareholders of each of the Funds, which approval shall be forthcoming prior to the making of any such payment to the respective Funds. For the purpose of the reserve no effect is to be given to expenses of Counsel and Sponsors in excess of their average monthly expenses during the 12-month period ending June 30, 1969, except by reason of payments by Counsel to any of the Funds on account of its guaranty of expense limits to the Funds.

3. Neither Counsel nor Sponsors will make any distribution of funds to ISC except as reimbursement for future advances which might be made by ISC to Counsel or Sponsors for the purpose of either operating the Funds, or maintaining required capital ratios or minimums, or reimbursement of any Fund to meet Counsel's expense guaranty to the Funds.

It is further ordered, That jurisdiction is hereby reserved to make any further order that the Commission may deem appropriate concerning any of the issues herein at any time before the final determination of this proceeding.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by publication of this order in the FEDERAL REGISTER; and that a general release of the Commission in respect of this order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary*.

[F.R. Doc. 69-9148; Filed, Aug. 4, 1969; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI70-47 etc.]

TEXACO, INC., ET AL.

Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JULY 24, 1969.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-47..	Texaco, Inc., Post Office Box 2100, Denver, Colo. 80201.	183	[3] 11	El Paso Natural Gas Co. (Aneth Field, San Juan County, Utah).	$77,400	6-23-69	[3] 7-27-68	12-27-69	17.7	[4] [5] 22.0	
	Texaco, Inc., Post Office Box 2420, Tulsa, Okla. 74102.	126	[6] 8	Colorado Interstate Gas Co. (Greenwood Field, Morton County, Kans.).	.....	6-30-69	[7] 7-31-69	(Accepted)	.....	.....	
		126	9		13,740	6-30-69	[7] 7-31-69	12-31-69	[10] [11] 15.0	[5] [12] 17.0	
	do	125	[6] 11	Colorado Interstate Gas Co. (Keyes Field, Cimarron and Texas Counties, Okla.) (Panhandle Area).	.....	6-30-69	[7] 7-31-69	(Accepted)	.....	.....	
		125	12		3,243	6-30-69	[7] 7-31-69	7-31-69	[10] [11] [13] 15.0	[4] [5] [12] 17.0	
					2,313	.....	.....	.....	[10] [11] [13] 16.0	[4] [5] [12] [13] 17.0	
RI70-48..	Union Texas Petroleum, a division of Allied Chemical Corp. (Operator), Post Office Box 2120, Houston, Tex. 77001.	12	12	El Paso Natural Gas Co. (Perkins Plant, Coke County, Tex.) (RR. District No. 7C) (Permian Basin Area).	110,978	7-1-69	[3] 8-1-69	1-1-70	18.2430	[4] [5] 19.2565	RI69-185.
RI69-49..	Union Texas Petroleum, a division of Allied Chemical Corp. et al.	13	18	El Paso Natural Gas Co. (Jack Herbert Field, Upton County, Tex.) (RR. District No. 7C) (Permian Basin Area).	803	7-1-69	[3] 8-1-69	1-1-70	16.6584	[4] [5] 17.6080	RI69-487.
	do	39	11	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin Area).	2,906	7-1-69	[3] 8-1-69	1-1-70	[14] 16.8805	[4] [5] [14] 17.9036	RI69-487.
RI70-50..	Union Texas Petroleum, a division of Allied Chemical Corp.	41	13	El Paso Natural Gas Co. (Jack Herbert and Annecher Tippett Fields, Upton County, Tex.) (RR. District No. 7C) (Permian Basin Area).	821	7-1-69	[3] 8-1-69	1-1-70	15.2025	[4] [5] 16.2160	RI69-488.
	do	64	19	El Paso Natural Gas Co. (Benedum Plant, Upton County, Tex.) (RR. District No. 7C) (Permian Basin Area).	73,986	7-1-69	[3] 8-1-69	1-1-70	18.2430	[4] [5] 19.2565	RI69-186.
	do	95	2	Transwestern Pipeline Co. (Hamon Ellenburger Field, Reeves County, Tex.) (RR. District No. 8) (Permian Basin Area).	42,773	6-24-69	[3] 7-25-69	12-25-69	13.48	[5] [15] 17.5	
	do	96	2	do	14,441	6-24-69	[3] 7-25-69	12-25-69	13.24	[5] [15] 17.5	
RI70-51..	Alvin C. Hope (Operator) et al., 1032 Milam Bldg., San Antonio, Tex. 78205.	1	7	West Lake Natural Gasoline Co. (Lake Trammell Canyon Field, Nolan County, Tex.) (RR. District No. 7B).	75	7-2-69	[17] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-351 and RI68-547.
	Alvin C. Hope (Operator) et al.	2	5	do	5	7-2-69	[17] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-351.
RI70-52..	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	100	10	West Lake Natural Gasoline Co. [16] (South Lake Trammell and North Nena Lucia Fields, Nolan County, Tex.) (RR. District No. 7B).	1,000	7-2-69	[17] 8-1-69	1-1-70	9.0	[5] [19] 9.5	RI65-165.
RI70-53..	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	173	6	West Lake Natural Gasoline Co. [16] (West Lake Trammell Field, Nolan County, Tex.) (RR. District No. 7B).	23	7-3-69	[17] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-31.
RI70-54..	West Lake Natural Gasoline Co., El Paso Natural Gas Bldg., El Paso, Tex. 79999.	1	7	El Paso Natural Gas Co. (West Lake Plant, Nolan County, Tex.) (RR. District No. 7B).	40,535	6-30-69	[3] 8-1-69	1-1-70	18.0	[4] [5] 19.0	RI65-29.
RI70-55..	Humble Oil & Refining Co., P.O. Box 2180, Houston, Tex. 77001.	141	7	West Lake Natural Gasoline Co. [16] (Nena Lucia Field, Nolan County, Tex.) (RR. District No. 7B).	5,834	6-30-69	[3] 8-1-69	1-1-70	9.0	[5] [19] 9.5	RI65-122.
	do	455	3	Transwestern Pipeline Co. (Mendota Field, Hemphill County, Tex.) (RR. District No. 10).	180	7-3-69	[7] 8-3-69	1-3-70	[20] 17.0	[4] [20] 19.5	
RI70-56..	Forest Oil Corp., 1300 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	20	6	West Lake Natural Gasoline Co. [16] (Nena Lucia Field, Nolan County, Tex.) (RR. District No. 7B).	954	6-25-69	[3] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-30.
RI70-57..	Lamar Hunt Trust Estate, 1401 Elm St., Dallas, Tex. 75202.	7	5	West Lake Natural Gasoline Co. [16] (Vena Madre Field, Nolan County, Tex.) (RR. District No. 7B).	35	6-27-69	[3] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI67-302.
RI70-58..	N. B. Hunt, 1401 Elm St., Dallas, Tex. 75202.	11	4	do [16]	60	6-27-69	[3] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-166.
RI70-59..	Thornton Oil Co., 1100 Philtower Bldg., Tulsa, Okla. 74103.	1	6	West Lake Natural Gasoline Co. [16] (Nena Lucia Field, Nolan County, Tex.) (RR. District No. 7B).	252	6-30-69	[3] 8-1-69	1-1-70	9.0	[5] [18] 9.5	RI65-433.
RI70-60..	Pecos County et al., [16] El Paso Natural Gas Co., El Paso, Tex. 79999.	1	12	El Paso Natural Gas Co. (Benedum Field Gasoline Plant, Upton County, Tex.) (Permian Basin Area).	7,860	6-30-69	[21] 9-18-69	2-18-70	[22] 18.243	[4] [5] 19.2565	
RI70-61..	Pecos Co. (Operator). [16]	2	14	El Paso Natural Gas Co. (Midkiff Gasoline Plant, Midland County, Tex.) (Permian Basin Area).	7,860	6-30-69	[21] 9-18-69	2-18-70	[23] 16.2160	[4] [5] 17.2295	
	do [16]	4	11	El Paso Natural Gas Co. (Wilshire Gasoline Plant, Upton County, Tex.) (Permian Basin Area).	18,262	6-30-69	[21] 9-18-69	2-18-70	[23] 18.2430	[4] [5] 19.2565	
	do [16]	7	4	El Paso Natural Gas Co. (Wilshire Devonian Gasoline Plant, Upton County, Tex.) (Permian Basin Area).	985	6-30-69	[21] 9-18-69	2-18-70	[24] 23.940	[4] [5] [24] 25.270	
RI70-62..	Northwest Production Corp. (Operator), [16] Post Office Box 1796, El Paso, Tex. 79949.	2	12	El Paso Natural Gas Co. (Barhart Gasoline Plant, Regan County, Tex.) (Permian Basin Area).	7,456	6-30-69	[21] 9-18-69	2-18-70	[24] 18.2430	[4] [5] 19.2565	
RI70-63..	Northwest Production Corp. [16]	3	1	El Paso Natural Gas Co. (South Blanco Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	281	6-30-69	[3] 8-1-69	1-1-70	13.0	[25] 14.0	

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-64..	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	7	18	El Paso Natural Gas Co. (Dollarhide Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	$202	6-25-69	[3] 8-1-69	1-1-70	[27 28] 18.243	[4 5] 19.256	
	do	48	6	El Paso Natural Gas Co. (Wemac Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	(29)	6-25-69	[3] 8-1-69	1-1-70	12.81	[3 30] 16.216	
RI70-65..	Hunt Oil Co. (Operator) et al.	33	19	El Paso Natural Gas Co. and Pecos Co. (Amacker-Tippett Field, Upton County, Tex.) (RR. District No. 7C) (Permian Basin Area).	51	6-25-69	[3] 8-1-69	1-1-70	[27 31] 15.202	[4 5] 16.216	
					2,027				[27 31] 16.723	[4 5] 17.736	
	do	34	17	do	4,561	6-25-69	[3] 8-1-69	1-1-70	[27 31] 15.202	[4 5] 16.216	
RI70-66..	Ashland Oil & Refining Co. (Operator) et al., Post Office Box 18695, Oklahoma City, Okla. 73118.	44	5	El Paso Natural Gas Co. (Spraberry Field, Glasscock, Reagan, and Sutton Counties, Tex.) (RR. District Nos. 8 and 7C) (Permian Basin Area).	230	6-23-69	[3] 8-1-69	1-1-70	18.0	[4 5] 19.0	RI69-94.
RI70-67..	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	18	14	El Paso Natural Gas Co. (Justis Field, Lea County, N. Mex.) (Permian Basin Area).	31	6-30-69	[3] 8-1-69	1-1-70	[9 32] 16.819	[4 5 33 37] 17.902	RI69-171.
	do	26	13	El Paso Natural Gas Co. (Slaughter Field, Hockley, Cochran, and Terry Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	4,430	6-30-69	[3] 8-1-69	1-1-70	18.105	[4 5] 19.111	RI69-184.
	do	28	35	El Paso Natural Gas Co. (Spraberry Field, Midland, Glasscock, Upton, and Regan Counties, Tex.) (RR. District Nos. 8 and 7C) (Permian Basin Area).	7,348	6-30-69	[3] 8-1-69	1-1-70	18.243	[4 5] 19.256	RI69-184, RI68-407.
	do	29	15	El Paso Natural Gas Co. (Payton-Devonian Field, Ward and Pecos Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	405	6-30-69	[3] 8-1-69	1-1-70	[33] 16.723	[4 5 33] 17.736	RI69-214.
	do	19	12	El Paso Natural Gas Co. (Langlie Mattix Field, Lea County, N. Mex.) (Permian Basin Area).	358	6-30-69	[3] 8-1-69	1-1-70	[11 32] 16.879	[4 5 11 32] 17.902	RI69-171.
	do	208	9	El Paso Natural Gas Co. (Headlee Field, Ector County, Tex.) (RR. District No. 8) (Permian Basin Area).	(34)	6-30-69	[3] 8-1-69	1-1-70	18.122	[4 5] 19.128	RI69-184.
	do	243	[36] 16	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin Area.)	(34)	6-30-69	[3] 8-1-69	1-1-70	[11 32 34] 16.879	[4 5 11 32 34] 17.902	RI68-184.
	do	245	9	El Paso Natural Gas Co., (Drinkard Field, Lea County, N. Mex.) (Permian Basin Area).	409	6-30-69	[3] 8-1-69	1-1-70	[11 32] 16.879	[4 5 11 32] 17.902	RI69-184.
	do	11	[36] 13	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.) (Permian Basin Area).	256	6-30-69	[3] 8-1-69	1-1-70	[11 32 35] 16.879	[4 5 11 32 35] 17.902	RI69-171.
	do	15	13	El Paso Natural Gas Co. (Langlie Field, Lea County, N. Mex.) (Permian Basin Area).	256	6-30-69	[3] 8-1-69	1-1-70	[11 32] 16.879	[4 5 11 32] 17.902	RI69-171.
	do	17	12	El Paso Natural Gas Co. (South Eunice Field, Lea County N. Mex.) (Permian Basin Area).	665	6-30-69	[3] 8-1-69	1-1-70	[11 32] 16.879	[4 5 11 32] 17.902	
	do	363	14	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.) (Permian Basin Area).	3,466	6-26-69	[3] 8-1-69	1-1-70	[11 32] 16.832	[4 5 11 32] 17.852	RI68-520,
					539				[11 32] 16.376	[4 5 11 32] 17.396	RI68-520.
	do	368	10	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin Area).	312	6-26-69	[3] 8-1-69	1-1-70	[11] 16.879	[4 5 11] 17.902	RI68-520.
	do	377	10	El Paso Natural Gas Co. (Emma Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	1,773	6-26-69	[3] 8-1-69	1-1-70	[30] 15.202	[4 5 30] 16.216	RI68-520,
					1,273				[30] 15.177	[4 5 30] 16.189	RI68-520.
	do	439	8	Transwestern Pipeline Co. (Crawar Field, Crane and Ward Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	10,805	6-26-69	[3] 7-27-69	12-27-69	17.0	[4 5] 18.0	RI68-520.
	do	140	12	El Paso Natural Gas Co. (Block 9 Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	9,227	6-30-69	[3] 8-1-69	1-1-70	15.202	[4 5] 16.216	RI69-184.
	do	240	8	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.) (RR. District No. 7C) (Permian Basin Area).	25	6-30-69	[3] 8-1-69	1-1-70	18.243	[4 5] 19.256	RI69-184.
	do	275	6	El Paso Natural Gas Co. (West Jal Field, Lea County, N. Mex.) (Permian Basin Area).	295	6-30-69	[3] 8-1-69	1-1-70	[11] 16.879	[4 5 11] 17.902	RI69-184.
	do	336	20	El Paso Natural Gas Co. (Spraberry Field, Glasscock, Midland, Reagan, and Upton Counties, Tex.) (RR. District Nos. 7C and 8) (Permian Basin Area).	10,461	6-26-69	[3] 8-1-69	1-1-70	[30] 18.243	[4 5 30] 19.255	RI68-502,
					128				[30] 18.213	[4 5 30] 19.224	RI68-502.
	do	337	25	El Paso Natural Gas Co. (Lea County, N. Mex.) (Permian Basin Area).	6,437				[11 32 35] 16.879	[4 5 11 32 35] 17.902	RI68-502.
					8,719				[11 32 35] 16.422	[4 5 11 32 35] 17.445	RI68-502.
					915				[11 32 40] 16.832	[4 5 11 32 40] 17.852	RI68-502.
					5,179				[11 32 40] 16.376	[4 5 11 32 40] 17.396	RI68-502.
	do	344	9	El Paso Natural Gas Co. (Denton Plant, Lea County, N. Mex.) (Permian Basin Area).	401	6-26-69	[3] 8-1-69	1-1-70	18.0	[4 5] 19.0	RI68-539.

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-68..	Cabot Corp. (SW), Post Office Box 1101, Pampa, Tex. 79065.	40	7	Northern Natural Gas Co. (Various Fields, Beaver County, Okla.) (Panhandle Area) and Ochiltree and Hansford Counties, Tex.) (RR. District No. 10).	$1,430	6-30-69	[7] 7-31-69	12-31-69	[20] 17.5	[4] [20] 18.5	RI64-152.
RI70-69..	Union Texas Petroleum, a division of Allied Chemical Corp. (Operator) et al.	49	15	El Paso Natural Gas Co. (Crosby Devonian Field, Lea County, N. Mex.) (Permian Basin Area).	3,652	7- 1-69	[3] 8- 1-69	1- 1-70	[14] 16.8805	[4] [14] 17.9036	RI69-489.
	....do	52	12	ElPaso Natural Gas Co. (Blinebry Gas Field, Lea County, N. Mex.).	266	7- 1-69	[3] 8- 1-69	1- 1-70	[14] 16.8805	[4] [14] 17.9036	RI69-489.
	Union Texas Petroleum, a division of Allied Chemical Corp. et al.	22	12	El Paso Natural Gas Co. (Langlie Mattix Field, Lea County, N. Mex.) (Permian Basin Area).	15	7- 1-69	[3] 8- 1-69	1- 1-70	[14] 16.8805	[4] [14] 17.9036	RI69-487.
	....do	23	18	El Paso Natural Gas Co. (Spraberry Trend Area, Reagan and Glasscock Counties, Tex.) (RR. District Nos. 7C and 8) (Permian Basin Area).	1,216	7- 1-69	[3] 8- 1-69	1- 1-70	18.2430	[4] 19.2565	RI69-487.

[1] Does not apply to acreage added by Supplement No. 7.
[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Amendment dated June 6, 1969, provides for 17-cent rate from Jan. 1, 1969 through Dec. 31, 1973.
[6] The stated effective date is the first day after expiration of the statutory notice.
[7] Renegotiated rate increase.
[8] Pressure base is 14.65 p.s.i.a.
[9] Subject to upward and downward B.t.u. adjustment.
[10] Settlement rate as approved by Commission order issued Dec. 30, 1963, in Docket Nos. 8969 et al. Moratorium on filing increased rates expired on Mar. 1, 1966.
[11] Base acreage only.
[12] Additional acreage only.
[13] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[14] Increase from applicable area ceiling rate to contract rate.
[15] West Lake resells the gas to El Paso Natural Gas Co. under its FPC Gas Rate Schedule No. 1.
[16] The stated effective date is the effective date of the buyer's proposed increased rate.
[17] Revenue-sharing rate increase. For the period from Jan. 1, 1969 to Jan. 1, 1973, the contract price is 50 percent of buyer's resale price but not less than 50 percent of 13 cents.
[18] A subsidiary of El Paso Natural Gas Co.
[19] Subject to a downward B.t.u. adjustment.
[20] The stated effective date is 1 day after suspended rate becomes effective subject to refund.
[21] Rate suspended in Docket No. RI69-687 until Sept. 17, 1969. Respondent has filed motion to make rate effective on that date.
[22] Rate suspended in Docket No. RI69-688 until Sept. 17, 1969. Respondent has filed motion to make rate effective on that date.
[23] Includes upward B.t.u. adjustment of 6.270 cents for gas containing 1,330 B.t.u. per cubic foot (19-cent base rate).
[24] Rate suspended in Docket No. RI69-702 until Sept. 17, 1969. Respondent has filed motion to make rate effective on that date.
[25] Rate suspended in Docket No. RI69-703 until Sept. 17, 1969. Respondent has filed motion to make rate effective on that date.
[26] Motion has been filed to make rate effective upon expiration of suspension period.
[27] Rate suspended in Docket No. RI69-577 until July 21, 1969.
[28] No present deliveries—estimate unavailable.
[29] Filing from applicable area ceiling rate to contractual rate.
[30] Rate suspended in Docket No. RI69-549 until July 21, 1969.
[31] Subject to 0.4467 cent per Mcf compression charge where applicable.
[32] Subject to 0.50 cent per Mcf compression charge where applicable.
[33] No sales anticipated—cycling.
[34] Does not apply to the Lanehart No. 1 Jalmat Gas Well which has effective rate of 10 cents per Mcf.
[35] Does not apply to acreage covered by Supplement No. 11.
[36] High pressure gas.
[37] Low pressure gas.
[38] Regular leases.
[39] University leases.

Texaco, Inc. (Texaco) requests an effective date of June 30, 1969, for its proposed contract amendments and related rate increases. Cabot Corp. (SW) (Cabot) requests that its proposed rate increase be permitted to become effective on July 23, 1969. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Texaco and Cabot's rate filings and such requests are denied.

Humble Oil & Refining Co. (Humble) requests a July 1, 1969, effective date for Supplement No. 3 to its FPC Gas Rate Schedule No. 455 and should the Commission suspend such rate filing, that the suspension period be shorted to 1 day, or as short a period as possible. Good cause has not been shown for permitting an earlier effective date for Humble's rate filing, or for limiting to 1 day the suspension period with respect thereto and such request is denied.

Texaco's proposed increased rate of 22 cents per Mcf is for a sale of gas to El Paso Natural Gas Co. (Supplement No. 11 to Texaco's FPC Gas Rate Schedule No. 183) in the Aneth Area of Utah and was certificated in Opinion No. 335 issued February 23, 1960. No formal guideline prices have been announced by the Commission for the Aneth Area. Since the proposed rate exceeds the 21 cents per Mcf rate for a similar sale in the Aneth Area which was suspended and is presently in effect subject to refund, we conclude that Texaco's proposed rate should be suspended for 5 months from July 27, 1969, the proposed effective date.

The proposed rate increases filed by Alvin C. Hope (Operator) et al., Sun Oil Co., Shell Oil Co., Humble (Supplement No. 7 to Humble's FPC Gas Rate Schedule No. 141), Forest Oil Corp. et al., Lamar Hunt Trust Estate, N. B. Hunt and Thornton Oil Co. are revenue-sharing increases from 9 cents to 9.5 cents per Mcf for sales of gas to West Lake Natural Gasoline Co. (West Lake) in Nolan County, Tex. The proposed increases the 50 percent of West Lake's proposed increase to 19 cents per Mcf for its resale of the gas to El Paso Natural Gas Co. West Lake's proposed increase exceeds the increased ceiling rate of 11.5 cents and is suspended herein for 5 months from August 1, 1969, the proposed effective date. Although the producers' proposed increases for sales to West Lake are below the increased rate ceiling they are a percentage portion of a suspended rate and are suspended, with the suspension period to terminate on the same date as West Lake's suspension period (Jan. 1, 1970). Pecos Co. et al., Pecos Co. (Operator), Northwest Production Corp. (Operator), Hunt Oil Co. (Supplement No. 18 to Hunt's FPC Gas Rate Schedule No. 7) and Hunt Oil Co. (Operator) et al., relate to rate schedules for which rates are currently suspended. The producers involved have submitted the required motions to place the suspended rates into effect and propose to make the instant rate changes effective as of 1 day after the expiration of the suspension period.

Nineteen of the proposed rate increases herein reflect partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. The buyer, El Paso Natural Gas Co. (El Paso), in accordance with its policy of protesting tax filings proposing reimbursement for the New Mexico Emergency School Tax in excess of 0.55 percent, is expected to file protests to these rate increases. El Paso questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While the buyer concedes that the New Mexico legislation effected a higher rate of at least 0.55 percent, it claims there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, we shall provide that the hearings herein with respect to the rate filings containing such tax shall concern themselves with the contractual basis for the rate filings, as well as the

statutory lawfulness of the proposed increased rates and charges.

Concurrently with the filing of its rate increases (Supplements Nos. 9 and 12 to Texaco's FPC Gas Rate Schedules Nos. 126 and 125, respectively), Texaco filed two contract amendments dated June 6, 1969, designated as Supplements Nos. 8 and 11 to the aforementioned rate schedules, which provide for its proposed rate increases. We believe that it would be in the public interest to accept for filing Texaco's contract amendments to become effective on July 31, 1969, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR Ch. I, Part 2, § 2.56) with the exceptions of the rate increases filed by the producers relating to sales in the Permian Basin Area which exceed the just and reasonable rates established by the Commission in Opinion No. 468, and the rate increase filed by Texaco in the Aneth Area for which there is no announced formal ceiling for the area involved, but which is the highest filed rate in the Aneth Area, and the revenue sharing increases relating to sales to West Lake.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing Texaco's two contract amendments dated June 6, 1969, designated as Supplements Nos. 8 and 11 to Texaco's FPC Gas Rate Schedule Nos. 126 and 125, respectively, and for permitting such supplements to become effective as of July 31, 1969, the expiration date of the statutory notice.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplements referred to in paragraph (1) above).

The Commission orders:

(A) Supplements Nos. 8 and 11 to Texaco's FPC Gas Rate Schedules Nos. 126 and 125, respectively, are accepted for filing and permitted to become effective on July 31, 1969, the expiration date of the statutory notice.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplements set forth in paragraph (A) above).

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37 (f)) on or before September 10, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69–9011; Filed, Aug. 4, 1969; 8:45 a.m.]

GULF OIL CORP. ET AL.

Order on Petitions for Special Relief

JULY 28, 1969.

Gulf Oil Corp., Docket No. RI70–75; Humble Oil & Refining Co., Docket No. RI70–76; The California Co., Docket No. RI70–77; Phillips Petroleum Co., Docket No. RI70–78; Texaco, Inc., Docket No. RI70–79.

Each of the above-named petitioners has filed for special relief pursuant to ordering paragraph (C) of Opinion No. 546–A, issued March 20, 1969, in Area Rate Proceeding, Docket Nos. AR61–2 et al., 41 FPC _____, with respect to natural gas produced offshore South Louisiana and transported to onshore points by them for sale and delivery to their respective pipeline purchasers.[1]

Ordering paragraph (C) of Opinion No. 546–A provides that a producer may, by reason of the fact that it is transporting or paying for the transportation of gas produced in the Federal Domain to a point onshore, file a rate reflecting the applicable onshore base area rate by petitioning for special relief setting forth the facts regarding each case. It further provides that the difference between the onshore and offshore rate shall be subject to refund as to all or any part thereof to which the producer ultimately is found not to be entitled. The applicable offshore and onshore area rates for the subject sales were established by the Commission in its Opinion No. 546, issued September 25, 1968, 40 FPC 530. (Section 154.105(c)(1), Regulations Under the Natural Gas Act.)

Because of the stays issued by the court and the Commission of Opinion Nos. 546 and 546–A, Petitioners have in most instances collected since October 1, 1968 (the effective date of the South Louisiana decision) and will continue to collect rates which are at or in excess of the onshore area rate for Federal Domain gas transported onshore.[2] Absent the stay, under paragraph (C) of Opinion No. 546–A, Petitioners would be allowed to continue collection of the onshore area rate as of October 1, 1968, subject to refund.[3]

If the Commission's stay is dissolved, each of the Petitioners will reduce its rates to the applicable onshore rate, and all monies collected since October 1, 1968, in excess of the onshore area rate will be subject to refund under ordering paragraph (C) of Opinion No. 546. However, the question of refunds with respect to the difference between the applicable onshore and offshore rates collected since October 1, 1968 (including any such amounts collected after the dissolution of the stay), will await final action of the Commission on Petitioners' petitions for special relief in the above-entitled proceedings.

The Commission orders:

(A) Petitioners' petitions for special relief with respect to the sales listed in the attached appendix will be disposed of in the above-entitled proceedings.

(B) Notices of intervention, or petitions to intervene in the above-entitled proceedings may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 and 1.37(f)) on or before August 26, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Petitioners' rate schedules under which the subject sales are made and the pipeline purchasers are set forth in the appendix thereto.

[2] In a few situations Petitioners are collecting rates which are not as high as the applicable onshore area rate. In these circumstances it will be necessary for Petitioners to file notices of change in rate before they may collect higher rates in accordance with paragraph (C) of Opinion No. 546–A.

[3] The Fifth Circuit Court of Appeals on May 13, 1969, granted a stay of the orders issued in said opinions until appeals are heard but not beyond July 1, 1969. Thereafter, at the Court's request, the Commission by order issued May 29, 1969, stayed the rate reduction provisions of Opinion Nos. 546 and 546–A to and including October 13, 1969. As a result of the Commission's action, the Court dissolved its stay on May 29, 1969.

APPENDIX

Petitioner	FPC gas rate schedule No.	Purchaser
Gulf Oil Corp.	88	Tennessee Gas Pipeline Co.
	Supplement 8 to 88	Do.
	277	Southern Natural Gas Co.
	278	Texas Eastern Transmission Corp.
	391	Do.
Humble Oil & Refining Co.	357	United Fuel Gas Co.
The California Co.	36	Natural Gas Pipe Line Company of America.
Phillips Petroleum Co.	442	United Gas Pipe Line Co.
Texaco, Inc.	343	Texas Gas Transmission Corp.
	362	Do.
	374	Southern Natural Gas Co.
	383	Natural Gas Pipe Line Company of America.

[F.R. Doc. 69-9136; Filed, Aug. 4, 1969; 8:46 a.m.]

[Docket No. G 3072 etc.]

HUMBLE OIL & REFINING CO. ET AL.

JULY 29, 1969.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued July 18, 1969, and published in the FEDERAL REGISTER July 29, 1969, 34 F.R. 12413, page 5, column 3, Docket No. CI65-536: Change location to read "Basin Dakota Field, San Juan County, New Mexico" in lieu of "Basin Dakota Field, San Juan County, Texas."

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-9137; Filed, Aug. 4, 1969; 8:46 a.m.]

[Docket No. CP70-5]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Application

JULY 29, 1969.

Take notice that on July 14, 1969, Midwestern Gas Transmission Co. (Applicant), 231 South La Salle Street, Chicago, Ill. 60690, filed in Docket No. CP 70-5 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to increase total peak day sales to five existing customers on its Northern System, all as more fully described in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to increase its peak day sales of 3,118 Mcf commencing November 1, 1969, in order to render requested increase in service to the five existing customers. Applicant's present unallocated natural gas supply and the proposed amendment providing for additional natural gas will result in 3,253 Mcf available to Applicant's Northern System.

No additional facilities will be necessary to render the increased natural gas service and the additional volumes of gas will be sold under the terms of Applicant's presently effective FPC Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1969, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-9138; Filed, Aug. 4, 1969; 8:46 a.m.]

[Docket No. RP70-1]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

JULY 29, 1969.

Mississippi River Transmission Corp. (Mississippi) on July 1, 1969, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1.[1] The proposed changes would increase jurisdictional revenues by an estimated $8,117,059 based on sales for the 12-month period ending March 31, 1969, as adjusted. The changes are proposed to become effective August 1, 1969.

Mississippi states that the proposed changes are required by (1) increased purchased gas costs due principally to the decline in productivity of certain reserves, new purchases at generally higher prices and changes in purchase patterns; (2) increased operating costs due to wage and salary increases as well as increases in the costs of materials and services; (3) increased taxes—both Federal and State; and (4) increased financing costs. The proposed rates include a claimed rate of return of 9 percent.

A review of the filing indicates that certain issues are raised therein which require development in an evidentiary proceeding. Those issues include, but are not limited to: the rate of return and associated taxes; rate base; rate design and cost allocation; level of increases in operating and maintenance expenses; purchase gas costs; Federal and State taxes; and sales volumes.

The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

We contemplate that some of the issues involved in this proceeding may be susceptible of hearing and decision within the 5-month suspension period or shortly thereafter. In order that the collection and refunding of any possible excess charges may be avoided or limited, we are authorizing the Presiding Examiner to determine which issues, if any, may be tried in an initial phase of the hearing.

Mississippi on July 17, 1969, filed a motion requesting that its proposed rate increases not be suspended for the full statutory period, but if suspended, the period be shortened to 4 months, i.e., December 1, 1969. In support of its motion Mississippi notes that a pending rate increase filed by Natural Gas Pipeline Company of America (Natural), one of its suppliers, will become effective on December 1, 1969. Mississippi will not be able to charge its customers to reflect the increased gas purchase costs until January 1, 1970, if its filing is suspended for 5 months.

The 1 month increase in purchase gas costs to Mississippi resulting from Natural's proposed rate increase amounts to only a small portion of Mississippi's total rate increase. Accordingly, we find that good cause has not been shown for granting Mississippi's request for a shortened suspension period with respect to the total rate increase requested. Therefore, we will deny Mississippi's motion. However, this action is not intended to preclude Mississippi from filing for increased rates to track the Natural rate increase for the 1 month during which Natural's increase can be made effective while Mississippi's rate increase is under suspension.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Mississippi's FPC Gas Tariff, as proposed to be amended, and that the proposed

[1] Proposed revised Tariff Sheets: Fourth Revised Sheet No. 4, First Revised Sheet No. 6, Third Revised Sheet Nos. 7A and 7B, First Revised Sheet No. 7E, Fourth Revised Sheet No. 23, and Second Revised Sheet No. 5.

tariff sheets listed above be suspended, and use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, ch. I), a public hearing shall be held commencing August 5, 1969, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Mississippi's FPC Gas Tariff, as proposed to be amended.

(B) Pending such hearing and decision thereon, Mississippi's proposed revised tariff sheets listed above are hereby suspended and the use thereof is deferred until January 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) At the hearing on August 5, 1969, Mississippi's prepared testimony (Statement P) filed and served July 16, 1969, together with its entire rate filing as submitted and served on July 1, 1969, shall be admitted to the record as Mississippi's complete case-in-chief as provided in the Commission's regulations, § 154.63(e)(1), and Order No. 254, 28 FPC 495, 496, without prejudice to any motions by the parties with respect thereto.

(D) Following admission of Mississippi's complete case-in-chief the parties shall present their views and the Presiding Examiner in the exercse of his discretion, shall determine whether there shall be an initial phase and, if so, which issues shall be heard therein. If he determines that there shall be an initial phase hearing, he shall fix dates for service of staff's and interveners' evidence and Mississippi's rebuttal evidence on such issues; fix date for witnesses to appear for adoption of their testimony and to stand cross-examination thereon; and proceed with such hearing as expeditiously as feasible.

(E) Presiding Examiner, Allen C. Lande, or any other designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided; and shall control this proceeding in accordance with policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) The motion for a shortened suspension period filed by Mississippi on July 17, 1969, is denied.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-9139; Filed, Aug. 4, 1969; 8:46 a.m.]

[Docket No. CP70-12]

TRUNKLINE GAS CO.

Notice of Application

JULY 29, 1969.

Take notice that on July 18, 1969, Trunkline Gas Co. (Applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP70-12 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and for an increase in sales to Panhandle Pipe Line Co. (Panhandle) for its resale to The Ohio Fuel Gas Co. (Ohio Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Ohio Fuel consulted with Applicant as to the most expeditious manner in which new reserves could be made available to Ohio Fuel's markets, and decided to assign its gas purchase contract to Applicant, with Panhandle making additional deliveries to Ohio Fuel. To this end Applicant proposes to construct, in two phases and at a cost of $22,900,000, the necessary facilities to connect the Block 172 Field to its marine system, with the necessary mainline looping and compression to make additional deliveries to Panhandle at Tuscola, Ill., of 70,000 Mcf per day commencing November 1, 1970, and 30,000 Mcf per day commencing either November 1, 1972, or not later than November 1, 1973. Panhandle will increase its deliveries to Ohio Fuel by equivalent amounts at the same times.

Applicant proposes to construct the additional facilities in two phases and will include the following: 18.4 miles of 18-inch marine pipeline from South Timbalier Block 172 Field to Applicant's offshore platform T-25 in Block 139 Ship Shoal Area; 16.8 miles of 36-inch mainline loop between Johnsonville and Tuscola stations in Illinois; a total of 45,100 horsepower compressor addition divided among Applicant's Epps, Independence, Joppa, Centerville, and Shaw compressor stations, plus necessary miscellaneous additional station yard piping and relocation of piping and communication facilities at Independence station.

Applicant proposes to finance this project initially by short-term bank loans with permanent financing subsequently to be accomplished through issuance of mortgage bonds or other securities.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1969, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-9140; Filed, Aug. 4, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 31, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41706—*Cotton to specified points in Arkansas and Oklahoma.* Filed by Southwestern Freight Bureau, agent (No. B-55), for interested rail carriers. Rates on cotton, as described in the application, in carloads, from points in southwestern territory, also Kansas and Missouri, to specified points in Arkansas and Oklahoma.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 123 to Southwestern Freight Bureau, agent, tariff ICC 4576.

FSA No. 41707—*Baler or binder twine from North Atlantic ports.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2952), for interested rail carriers. Rates on baler or binder twine, as described in the application, in carloads, from Auburn, Albany, and New York, N.Y., Baltimore, Md., Boston, Mass., Philadelphia, Pa., and Norfolk and Richmond, Va., and points grouped therewith, to points in western trunkline territory, including Extended Zone "C" territory in Wisconsin.

Grounds for relief—Market competition and port relationship.

Tariffs—Supplement 12 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C–737, and Traffic Executive Association-Eastern Railroads, agent, tariff ICC C–773.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-9155; Filed, Aug. 4, 1969; 8:48 a.m.]

[No. MC-59583 (Sub. No. 121)]

MASON & DIXON LINES, INC.

Extension—Four Alternate Routes

At a session of the Interstate Commerce Commission, Review Board No. 2, held at its office in Washington, D.C., on the 28th day of July 1969.

Investigation of the matters and things involved in this proceeding having been made, and said review board, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, That said application, except to the extent granted in said report, be, and it is hereby, denied.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act within 90 days after the date of service hereof, or within such additional time as may be authorized by the Commission, the grant of authority made in said report shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board No. 2.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-9154; Filed, Aug. 4, 1969; 8:48 a.m.]

[Notice 877]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 30, 1969.

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 36556 (Sub-No. 18 TA), filed July 22, 1969. Applicant: HOWARD E. BLACKMON, doing business as HOWARD BLACKMON TRUCK SERVICE, Post Office Box 186, Somers, Wis. 53171. Applicant's representative: Howard E. Blackmon (same addess as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, between the plantsites and storage facilities of Badger By-Products Co. and Protein, Inc., Milwaukee, Wis., on the one hand, and, on the other, points in the lower Peninsula of Michigan, Indiana, Illinois, and Iowa, for 180 days. Supporting shipper: Badger By-Products Co. and its subsidiary, Protein, Inc., 511 East Menomonee Street, Milwaukee, Wis. 53202 (Benjamin Free, President). Send protests to: District Supervisor Lyel D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 51146 (Sub-No. 141 TA), filed July 22, 1969. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends and accessories*, from Chicago, Ill., to points in the Minneapolis-St. Paul commercial zone, Minn., for 180 days. Supporting shipper: National Can Corp., Midway Center, 5959 South Cicero Avenue, Chicago, Ill. 60638 (Roger F. Hermann, Central Area Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 87717 (Sub-No. 5 TA) (Correction), filed June 27, 1969, published FEDERAL REGISTER, issue of July 9, 1969, and republished as corrected this issue. Applicant: FANELLI BROTHERS TRUCKING COMPANY, Centre and Nichols Streets, Pottsville, Pa. 17901. Applicant's representative: S. Berne Smith, Post Office Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caps for beverage containers*, from the plantsite of Zapata Industries, Inc., in West Mahanoy Township, Schuylkill County, Pa., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. NOTE: The purpose of this republication is to include Missouri as a destination State, which was inadvertently omitted in previous publication. Supporting shipper: Zapata Industries, Post Office Box 2, Franckville, Pa. 17931. 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 94265 (Sub-No. 223 TA), filed July 24, 1969. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. 23502. Applicant's representative: Harry G. Buckwalter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dessert preparations, potato salad, cole slaw, macaroni salad, gelatine desserts*, from Brentwood, Md., to Chicago, Ill., and Detroit, Mich., for 180 days. Supporting shipper: Ida Mae Salads Inc., 4308 Penwood Road, Brentwood, Md. 20722. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

No. MC 106398 (Sub-No. 409 TA), filed July 23, 1969. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from plantsite of Modular Designs, Inc., Mansfield, La., to points in Mississippi, Alabama, Florida, Tennessee, Texas, Oklahoma, Arkansas, Missouri, New Mexico, and Colorado, for 180 days. Supporting shipper: Sam C. Pool, General Manager, Modular Designs, Inc., Post Office Box 795, Natchitoches, La. 71457. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 112617 (Sub-No. 261 TA), filed July 22, 1969. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, Ky. 40221. Applicant's representative: James S. Holloway (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins*, in bulk, in pneumatic tank vehicles, from Louisville, Ky., to Henderson, Ky., for 180 days. Supporting shipper: D. M. Gallagher, Supervisor, Distribution Analysis, Allied Chemical Corp., Post Office Box 365, Morristown, N.J. 07960. Send protests to:

Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 114533 (Sub-No. 195 TA), filed July 22, 1969. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60032. Applicant's representative: Stanley Komosa, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Ogden, Utah, on the one hand, and, on the other, points in the Cassia, Minidoka, Jerome, Twin Falls, Gooding, Elmore, Owyhee, Ada, Canyon, Washington, Gem, and Payette Counties, Idaho, and Malheur Counties, Oreg., for 180 days. Supporting shipper: The Amalgamated Sugar Co., First Security Bank Building, Box 1520, Ogden, Utah 84402. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 115311 (Sub-No. 103 TA), filed July 24, 1969. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, in bulk, in pneumatic trailers, from Atlanta, Ga., to New Orleans, La., for 150 days. Supporting shipper: CPC International, Inc., International Plaza, Englewood Cliffs, N.J. 07632. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 117991 (Sub-No. 1 TA), filed July 22, 1969. Applicant: ZAVITS BROTHERS, LTD., Rural Delivery 1, Wainfleet, Ontario, Canada. Applicant's representative: Robert D. Gunderman, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Bananas*, from Wilmington, Del., to ports of entry on the United States-Canada boundary line in the State of New York, for 180 days. Supporting shippers: West Indies Fruit Co., Post Office Box 1940, Miami, Fla. 33101; Chiovitti Banana Co., Ltd., 10 Magnificent Road, Toronto, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 118270 (Sub-No. 2 TA), filed July 22, 1969. Applicant: RODUCE TRANSPORT SERVICE, INC., 181 West Ramapo Avenue, Mahwah, N.J. 07430. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, pineapples, and cocoanuts* in boxes, cartons, or crates, in straight or mixed shipments, from Wilmington, Del., to points in Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, and Rhode Island, for 150 days. Supporting shipper: West Indies Fruit Co., Post Office Box 1940, Miami, Fla. 33101. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 126222 (Sub-No. 5 TA), filed July 22, 1969. Applicant: JOSEPH A. SIEFERT & JOSEPH J. SIEFERT, doing business as SIEFERT BROS. TRUCKING CO., Post Office Box 310, Du Quoin, Ill. 62832. Applicant's representative: Ernest A. Brooks II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass tubing*, for the account of Wheaton Glass Co., from the plantsite and warehouse facilities of Corning Glass Works, Parkersburg, W. Va., to Wheaton Glass Co., at or near Wamac, Ill., for 180 days. Supporting shipper: Wheaton Glass Co., Millville, N.J. 08332. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 Adams Street, Springfield, Ill. 62704.

No. MC 129307 (Sub-No. 19 TA), filed July 22, 1969. Applicant: McKEE LINES, INC., 664 54th Avenue, Mattawan, Mich. 49071. Applicant's representative: Jack H. Banshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, pineapples, and coconuts, and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Act when moving in mixed shipments with bananas, plantains, pineapples, and coconuts, from Wilmington, Del. to points in Indiana, Illinois, Iowa, Wisconsin, Minnesota, Missouri, Nebraska, and Michigan, for 180 days. Supporting shipper: West Indies Fruit Co., Post Office Box 1940, Miami, Fla. 33101. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 129403 (Sub-No. 3 TA), filed July 23, 1969. Applicant: A.N.R. TRUCKING CO., INC., 518 West 29th Street, New York, N.Y. 10001. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys*, stuffed and unstuffed, and *music boxes*, from points in the New York, N.Y., commercial zone as defined by the Commission in 53 M.C.C. 45, and from Port Newark and Port Elizabeth, N.J., to Middlesex, N.J., restricted to shipments having a prior movement by water, for 180 days. Supporting shipper: Knickerbocker Toy Co., Inc., 207 Pond Avenue, Middlesex, N.J. 08846. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 133438 (Sub-No. 1 TA), filed July 22, 1969. Applicant: ROBERT T. LETLOW, doing business as TAHOE TRUCKING, 480 National Avenue, Tahoe Vista, Calif. 95732. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregate, sand, and gravel* between points in Washoe, Ormsby, and Douglas Counties, Nev., on the one hand, and, on the other hand, points in El Dorado, Placer, and Nevada Counties, Calif., for 180 days. Supporting shipper: William R. Reynolds, doing business as North Tahoe Transit Mix Co., National Avenue, Tahoe Vista, Calif. 95732. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 East Washington Street, Carson City, Nev. 89701.

No. MC 133908 TA, filed July 24, 1969. Applicant: JERRY RANDALL, doing business as J & R TRUCKING, Wahpeton, N. Dak. 58075. Applicant's representative: Colin A. Bailey, 412 Dakota Avenue, Wahpeton, N. Dak. 58075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Green-salted* cattle hides, from Wahpeton, N. Dak., to Chicago, Ill., Milwaukee, Wis.; Lebanon, N.H.; and Galveston, Tex., for 180 days. Supporting shipper: Phillips Fur and Wool Co., Wahpeton, N. Dak. 58075. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-9156; Filed, Aug. 4, 1969; 8:48 a.m.]

[Notice 878]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 31, 1969.

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 42487 (Sub-No. 730 TA), filed July 24, 1969. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. Applicant's representative: Robert M. Bowden, Post Office Box 3062, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Healdsburg, St. Helena, and Ukiah, Calif., to Denver, Colo., for 150 days. Supporting shipper: Ivancie Winery, 400 South Lipan Street, Denver, Colo. 80223. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 109326 (Sub-No. 100 TA), filed July 24, 1969. Applicant: C & D TRANSPORTATION CO., INC., 962 Bay Bridge Road, Prichard, Ala. 36610. Applicant's representative: Robert E. Keene (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, pineapples, and coconuts*, from Wilmington, Del., to points in Maryland, Virginia, West Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Texas, Missouri, Illinois, Indiana, and Kentucky, for 180 days. Supporting shipper: West Indies Fruit Co., Post Office Box 1940, Miami, Fla. 33101. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 113325 (Sub-No. 132 TA), filed July 22, 1969. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid acids and chemicals* in bulk, in tank vehicles (except liquid nitrogen, liquid hydrogen, and liquid oxygen), from points in the United States (except Kingsport, Tenn., and points in Alaska and Hawaii), to St. Louis, Mo., restricted to the transportation of traffic destined to points in the St. Louis, Mo.-E. St. Louis, Ill., commercial zone, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 114273 (Sub-No. 46 TA), filed July 24, 1969. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prokuski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Postville, Iowa, to points in Illinois, Indiana, Ohio, Michigan, and Wisconsin, for 180 days. Supporting shipper: Hygrade Food Products Corp., 11801 Mack Avenue, Detroit, Mich. 48214. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 115162 (Sub-No. 176 TA), filed July 24, 1969. Applicant: POOLE TRUCK LINE, INC., Post Office Box 310, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubing*, from points in Lee County, Ala., to points in Erie County, N.Y., Pulaski County, Ky.; Obion County, Tenn., and Wayne County, Mich., for 180 days. Supporting shipper: Opelika Welding, Machine & Supply, Inc., Post Office Box 2209, Opelika, Ala. 36801. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 116077 (Sub-No. 269 TA), filed July 22, 1969. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: W. E. Weeks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ethylene*, in bulk, in tank vehicle, from Beaumont, Tex., and Baton Rouge, La., to the plant facility of Bromet Co. near Magnolia, Ark., for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Ethyl Corp. (Mr. Doss H. Berry, Jr., Traffic Attorney), Ethyl Tower, 451 Florida, Baton Rouge, La. 70801. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 118904 (Sub-No. 9 TA), filed July 24, 1969. Applicant: MOBILE HOME EXPRESS, LTD., 1915 F Avenue, Lawton, Okla. 73501. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Mayes County, Okla., to points in Texas, New Mexico, Kansas, Nebraska, Missouri, Louisiana, Colorado, Arkansas, and Illinois, for 180 days. Supporting shipper: Cherokee Manufacturing Co., Pryor, Okla. 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 124359 (Sub-No. 10 TA), filed July 25, 1969. Applicant: WIL-HELEM, INC., 1409 16th Avenue, Greeley, Colo. 80631. Applicant's representative: Paul F. Sullivan, 701 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and materials and supplies* used in the installation thereof, from Morris, Ill., to points in Colorado and Cheyenne, Wyo., restricted to service performed under a continuing contract with The Western Corp., Denver, Colo., for 150 days. Supporting shipper: The Western Corp., 201 South Cherokee, Denver, Colo. 80223. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 127717 (Sub-No. 1 TA), filed July 24, 1969. Applicant: Y. HIGA ENTERPRISES, LTD., Post Office Box 137, 2150 Nimitz Highway, Honolulu, Hawaii 96810. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Hawaii, restricted to traffic originating at or destined to points beyond the State of Hawaii, for 180 days. NOTE: Applicant proposes to enter into joint through motor-water-motor rates under section 216(c) of the Act. Supporting shippers: Dillingham Corp., Box 3468, Honolulu, Hawaii 96801; Hawaiian Telephone Co., Post Office Box 2200, Honolulu, Hawaii 96805. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 26004, San Francisco, Calif. 94102.

No. MC 127964 (Sub-No. 5 TA), filed July 24, 1969. Applicant: JOHN H. OSBORNE, doing business as OSBORNE TRUCKING, 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poly-vinyl chloride pipe*, from Austin, Minn., to points in Wyoming, Colorado, Nebraska, South Dakota, Montana, Idaho, and Utah, for 180 days. Supporting shipper: Riverton Concrete Products, Division of the Cretex Companies Inc., Post Office Box 452, Riverton, Wyo. 82501. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 304 Lierd Building, 259 South Center Street, Casper, Wyo. 82601.

No. MC 133909 TA, filed July 24, 1969. Applicant: M. DYER & SONS, INC., 2760 Kilihau Street, Honolulu, Hawaii 96819. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Hawaii, restricted to traffic originating at or destined to points beyond the State of Hawaii, for 180 days. NOTE: Applicant proposes to enter into joint through motor-water-motor rates under section 216(c) of the Act. Supporting shippers: Island Federal, 1856 Kalakaua Avenue, Post Office Box 2521, Honolulu, Hawaii 96804; Door to Door International, Inc., State of Washington, County of King. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 140 TA), filed July 24, 1969. Applicant: GREYHOUND LINES, INC., 10 South Riverside Plaza, Chicago, Ill. 60606. Applicant's representative: Bart Cook, 371 Market Street, San Francisco, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle, in special operations only, from Milwaukee, Wis., to Aurora Downs Race Track, North Aurora, Ill., and return, serving no intermediate points, for 180 days. NOTE: Applicant requests to tack to its existing authority. Supporting shippers: Verified statements of 14 prospective patrons are available for inspection at Field Office, Bureau of Operations, Chicago, Ill. 60604. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1086, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-9157; Filed, Aug. 4, 1969; 8:48 a.m.]

[Notice 389]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 31, 1969.

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 petitioners must be specified in their petitions with particularity.

No. MC-FC-71199. By order of July 24, 1969, the Motor Carrier Board approved the transfer to James R. Farkas, Johnstown, Pa., of the permit in No. MC-88254, issued January 9, 1940, to Everett Slagle, Johnstown, Pa., authorizing the transportation of such merchandise as is dealt in by wholesale and retail grocery and food business houses and equipment, materials and supplies used in the conduct of such business between points in a described area in Pennsylvania, Maryland, Virginia and West Virginia. Edward J. Harkins, 1101 First National Bank Building, Johnstown, Pa. 15901, attorney for applicants.

No. MC-FC-71384. By order of July 24, 1969, the Motor Carrier Board approved the transfer to James J. Campo, doing business as Campo's Express, Moscow, Pa., of permit No. MC-60060 issued August 12, 1953, to Kelly Motor Freight, Inc., Drexel Hill, Pa., authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points within central and southern New Jersey, and eastern Pennsylvania, and fruits, vegetables, farm products, poultry, and sea food, in the respective seasons of their productions from points in New Jersey, Pennsylvania, and Delaware to points within central and southern New Jersey and eastern Pennsylvania. Kenneth R. Davis, 1106 Dartmouth Street, Scranton, Pa. 18504, and Samuel Mazess, 1505 Race Street, Philadelphia, Pa. 19102, representatives for applicants.

No. MC-FC-71393. By order of July 24, 1969, the Motor Carrier Board approved the transfer to Reliable Transfer Company of Petersburg, Inc., Petersburg, Alaska, of certificates Nos. MC-124514 (Sub-No. 1) and MC-124514 (Sub-No. 2) issued June 25, 1964 and July 10, 1968, respectively, to Clifford T. Roundtree, doing business as Reliable Transfer, Box 930, Petersburg, Alaska 99801, authorizing the transportation of: General commodities, with the usual exceptions, between specified points in Alaska. Thomas E. Schulz, 319 Seward Street, Juneau, Alaska 99801, attorney for transferee.

No. MC-FC-71433. By order of July 24, 1969, the Motor Carrier Board approved the transfer to Russell Transfer Co., Inc., 157 Rosedale Street, Jackson, Tenn. 38301, of certificate No. MC-38646 issued February 25, 1942, to J. M. Lankford and Mrs. Mai Russell Lankford, a partnership, doing business as Russel Transfer Co., 157 Rosedale Street, Jackson, Tenn. 38301, authorizing the transportation of household goods, between Jackson, Tenn., on the one hand, and, on the other, specified points in Mississippi.

No. MC-FC-71460. By order of July 24, 1969, the Motor Carrier Board approved the transfer to Albert Ring, Andrew Ring, Ronald Ring, and Bernard Ring, a partnership, doing business as Frank Richard Ring, Neola, Iowa 51559, of certificate No. MC-62601 issued March 29, 1954, to Rowena M. Ring, doing business as Frank Richard Ring, Neola, Iowa 51559, authorizing the transportation of: Agricultural implements, feed and salt, between Neola, Iowa, and points within 10 miles, and Omaha, Nebr.

No. MC-FC-71487. By order of July 24, 1969, the Motor Carrier Board approved the transfer to Alfred Root, Jr., and Shirley Root Pisaneschi, 351 Wyoming Avenue, Wyoming, Pa., 18644, of the operating rights in certificate No. MC-51460 issued September 9, 1940, to Alfred Root, doing business as Root's Transfer, 351 Wyoming Avenue, Wyoming, Pa. 18644, authorizing the transportation, over irregular routes, of household goods between Wyoming, Pa., and points within 25 miles thereof, on the one hand, and, on the other, points in Pennsylvania, Virginia, West Virginia, North Carolina, Ohio, Rhode Island, Minnesota, New Jersey, New York, Massachusetts, Michigan, Illinois, Indiana, Maryland, Connecticut, Delaware, Florida, and the District of Columbia.

No. MC-FC-71518. By order of July 24, 1969, the Motor Carrier Board approved the transfer to La Barge Trucking Co., Inc., La Barge, Wyo., of certificate No. MC-123651, issued August 29, 1961, to Guy C. Decker, doing business as La Barge Service, La Barge, Wyo., authorizing the transportation of: Crude oil between points in Wyoming. Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-9158; Filed, Aug. 4, 1969; 8:48 a.m.]

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VOLUME 34 • NUMBER 148
Tuesday, August 5, 1969 • Washington, D.C.
PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

•

Milk in Oregon-Washington Marketing Area

Recommended Decision

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1124]

[Docket No. AO-368]

MILK IN OREGON-WASHINGTON MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of milk in the Oregon-Washington 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 20th 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)).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Portland, Oreg., on December 3–7, 1968, pursuant to notice thereof which was issued November 12, 1968 (33 F.R. 16588).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and its products.

The marketing area specified in the proposed order and designated as "the Oregon-Washington marketing area" includes all the territory within 35 contiguous counties and portions of two others. Twenty-six of these counties are in Oregon and the remainder are in Washington.

Of 1,045 producers supplying the proposed market, 865 reside in Oregon, 174 reside in Washington, and six reside in California.

Milk of many of these producers moves in interstate commerce from farm to plant of receipt. The milk of the six California producers is received and processed at a plant located in Klamath Falls, Oreg. Many of the Washington producers ship their milk to plants located in Oregon mainly in and around the city of Portland. Milk of Oregon producers is regularly received by plants located in the State of Washington.

During the season of short production and to a lesser extent throughout the entire year, milk is received from sources in Idaho at plants located in both Oregon and Washington which would be regulated under the order.

Approximately 68 million pounds of milk per month were priced and pooled under the Oregon Milk Audit and Stabilization Law during the period January–October 1968. Of this amount, approximately 18 percent originated on farms located outside the State of Oregon, primarily in the State of Washington.

During the same period an average of about 7 million additional pounds of milk per month were received from out of State sources by plants in Oregon. This milk was not priced or pooled under the Oregon statute.

Substantial quantities of fluid milk products processed and packaged in Oregon plants are distributed on routes in the State of Washington on a regular basis. Likewise, milk processed and packaged in Washington is regularly distributed on routes in those portions of Oregon within the area to be regulated.

At least one Oregon plant to be regulated regularly distributes fluid milk in California, and a California plant has regular route disposition in southern Oregon within the defined marketing area.

There is a plant at Moses Lake, Wash., which, although it is located outside the boundaries of the proposed marketing area, has route disposition within the marketing area. This plant ships substantial quantities of milk to Alaska on a regular basis.

In addition to the regular and substantial flow of fluid milk across State lines in both bulk and packaged form by plants to be regulated, there is a regular movement of manufactured dairy products. Much of the reserve supply of the proposed Oregon-Washington market is manufactured into such products as butter, nonfat dry milk and cheese. These products are produced for sale on the national market where they compete with similar products produced throughout the United States.

2. *The structure of the market and the need for an order.* There are seven dairy farmers' organizations seeking Federal order regulation for the Oregon-Washington marketing area.

The Mayflower Farms, Inc., a cooperative association of dairy farmers, is the largest single supplier of Grade A milk to handlers on the Oregon-Washington market. Its 430 Grade A producer members represent about 40 percent of the approximately 1,100 Grade A producers presently regulated under the Oregon law (excluding producer-distributors). Milk of these Grade A producer-members is pooled and priced under the Oregon State order.

Three hundred of these member producers are located in Oregon and the remaining 130 reside in Washington, generally within the confines of the marketing area.

The association membership also includes 400 dairy farmers engaged in the production of manufacturing grade milk and 170 who supply manufacturing plants with farm-separated cream.

The association operates fluid milk plants located at Portland, Astoria, Coos Bay, Medford, and Hermiston, Oreg., and at Yakima, Wash., all within the marketing area.

For the 12-month period of November 1967 through October 1968, this association marketed 280 million pounds of Grade A milk (23.3 million pounds, monthly). About 55 percent was disposed of as fluid milk products, 12 percent as cottage cheese, ice cream and related products and the remaining 33 percent was manufactured into Cheddar cheese, butter, and nonfat dry milk.

The association receives Grade A milk in bulk at its six plants and, in addition, delivers to three State institutions and 16 distributing plants located throughout the Oregon-Washington marketing area.

The Tillamook County Creamery Association located at Tillamook, Oreg., represents 320 dairy farmers, 130 of whom are engaged in the production of Grade A milk and 190 of whom produce manufacturing grade milk. Its plant supplies Grade A fluid milk to processing plants in Portland and is engaged in the distribution of Grade A fluid milk and milk products obtained in consumer packages from Portland plants. It does no bottling of its own. Excess Grade A milk and manufacturing grade milk are manufactured at the association's plant into Cheddar cheese and butter.

The Farmers Cooperative Creamery at McMinnville, Oreg., is a cooperative association of dairy framers, 116 of whom are engaged in the production of Grade A milk and 366 engaged in the production of manufacturing grade milk or farm-separated cream. This plant does not bottle but distributes Grade A fluid milk products and ice cream packaged by other handlers whose plants are located at Eugene and McMinnville, Oreg.

The association supplies bulk Grade A milk to distributing plants located in Portland and in other cities located throughout the Willamette River valley area.

The association's plant at McMinnville also provides an outlet for excess Grade A milk not needed for bottling use by other milk processors in the market. Excess Grade A milk and milk of manufacturing grade are processed at this plant into butter, nonfat dry milk, dry whole milk, dry ice cream mix, and ice milk mix.

The Eugene Farmers Creamery is a cooperative association of dairy farmers of whom 72 are engaged in Grade A milk production and 100 engaged in the production of manufacturing grade milk. The association processes and distributes Grade A fluid milk products at its plant in Eugene, Oreg. In addition, it supplies bulk Grade A milk to milk distributing plants located in Eugene, Springfield, Bend, and Redmond, Oreg.

This cooperative's plant supplies the packaged fluid milk and ice cream needs of the Farmers Cooperative Creamery at McMinnville and also delivers to the McMinnville plant its excess Grade A and manufacturing grade skim milk.

The Mount Angel Cooperative Creamery, Mount Angel, Oreg., is a cooperative association of dairy farmers, 24 of whom are engaged in the production of Grade A milk and 252 of whom deliver manufacturing grade milk or farm-separated cream. The Grade A milk is delivered to a Portland bottling plant and to some extent to other bottling plants located elsewhere. Grade A milk in excess of these requirements is received at the association's manufacturing plant, which is equipped to make butter, Cheddar cheese, and roller-process nonfat dry milk.

The remaining two proponent associations of dairy farmers, the Portland Independent Milk Producers Association, Portland, Oreg., and the Southern Oregon Farm Tanks, Grants Pass, Oreg., are nonprocessing associations of dairy farmers representing 48 and eight Grade A milk producers, respectively. The former association is also the marketing agent for the Oregon Guernsey Milk Producers Association which has as members 11 dairy farmers engaged in the production of Grade A milk. Milk from producer members of these associations is delivered to distributing plants in the market, a number of which are located in Portland. Excess Grade A not utilized by such distributors is diverted to the Farmers Cooperative Creamery at McMinnville.

The seven proponent associations market approximately 75 percent of all the Grade A milk received at plants regulated under the State of Oregon milk marketing program. They also have placed under the Oregon regulation the Grade A milk of member producers that is produced and marketed in Washington.

There are about 70 bottling plants in the area which receive milk from producers or cooperative associations. In addition, there are a large number of persons operating plants who are classified by the State of Oregon as producer-handlers and who also distribute milk in the area. The distribution of the individual producer-handlers varies from a few thousand pounds to as much as a million pounds of milk per month.

There is general agreement among producer interests in the market that marketing conditions in the area are such that an overall system of classification and pricing of milk should be adopted to restore stability and that for such a system to be effective it must be created under Federal authority.

As already noted, the State of Oregon presently administers a milk order program with purposes similar to those which the proponents seek in a Federal milk marketing order.

The State, however, may not enforce minimum prices with respect to milk produced outside Oregon. The Oregon milk marketing program's full effectiveness in recent years has been curtailed because of the inability of enforcement with respect to milk produced outside Oregon. Recognizing this fact, the Milk Audit and Stabilization Division of the Oregon Department of Agriculture supported the proponent cooperatives in seeking Federal regulation.

As noted earlier, there is substantial interchange of milk between the States of Oregon and Washington. Also, certain handlers on the Oregon-Washington market obtain supplemental supplies of Grade A milk from farms located in Idaho.

The distributing handlers doing a major portion of their business in the Oregon-Washington market and receiving all their milk from sources not regulated by the State of Oregon are the Arden Farms and Foremost Foods plants located at Portland, Oreg., and the Standard Dairy with plants located at Portland, Oreg., and Longview, Wash. The Alpenrose Dairy, Portland, Oreg., and the Sunshine Dairy, McMinnville, Oreg., receive a portion of their total Grade A milk supply from unregulated sources.

The prices paid by unregulated distributors for Grade A milk are not directly related to its use. While certain handlers on the Oregon-Washington market obtain milk from Washington and Idaho for fluid use at prices less than the Class I price established by the State of Oregon, others, including the proponent associations, pay classified prices for their milk. Thus, the actual cost of Class I milk to the unregulated handlers is often substantially below the Class I price paid by handlers regulated under the State order with whom they compete and reflects the particular bargaining position of the individual producers or groups of producers from whom they buy. Such unregulated handlers pay their farmers prices which are only slightly higher than the uniform prices paid by closely competing handlers who are regulated under the State order. Inevitably, a heterogeneous cost structure results, leading to price cutting and other disorderly marketing conditions at the expense of the dairy farmers regularly associated with the market.

Milk not regulated under Oregon statute which is purchased by these and other unregulated handlers doing business mainly in the Washington segment of the proposed market consequently is not purchased under a classified price plan designed to insure uniform pricing for all persons similarly situated.

A representative for one of the unregulated handlers located at Portland, Oreg., which does substantial business in the Oregon-Washington market, stated that for October 1968 the plant pay-price to three of its Washington resident producers, supplying 1.9 million pounds of Grade A milk for the month, was $5.41 per hundredweight (3.5 test). The prices (f.o.b. plant) are negotiated, determined on the basis of the prevailing competition among handlers for supply.

The average price of all milk pooled under the Oregon order for October 1968 was $5.45 and the Class I price was $6.10 per hundredweight for milk of the same butterfat test.

The Chief of the Milk Stabilization Division of the Oregon State Department of Agriculture, in his analysis of marketing problems in the area, testified that certain unregulated handlers on the Oregon-Washington market are able to purchase Class I milk at a price generally about 1 cent per quart (approximately 46.5 cents per hundredweight) less than the Oregon pool Class I price.

This witness pointed out that only handlers with a very high Class I utilization ratio can completely supply their plants with out-of-State nonpool milk. With respect to a plant handler having a high percentage of Grade A milk utilized in the manufacturing use category, his blend price would be lower if all such receipts were pooled under the Oregon order. This is because, under the Oregon Milk Stabilization regulation, an Oregon handler who uses both Oregon pool milk and nonpool milk must purchase his pool milk in proportion to his total plant utilization. This basis of allocating pool and nonpool receipts of a handler under the Oregon statute for classification purposes is commonly referred to as the "equal allocation" regulation.

Several witnesses referred to a study of marketings in the area of milk not pooled under the Oregon statute, made public by the Division of Milk Audit and Stabilization of the Oregon Department of Agriculture. According to this report, unregulated handlers competing with Oregon handlers have a buying advantage of as much as 50 to 60 cents per hundredweight on Class I milk. Such witnesses also contended that a Federal milk marketing agreement or order, therefore, is needed as the only means of assuring stable marketing conditions for dairy farmers, handlers, and the consuming public throughout the defined marketing area.

In view of the above circumstances, adoption of a marketing agreement or order for the Oregon-Washington marketing area will contribute to the improvement of marketing conditions and will tend to effectuate the declared policy

of the Act. Price stability and orderly marketing throughout the entire Oregon-Washington marketing area depend upon the adoption of a classified pricing plan based upon audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all such producers of the proceeds from the sale of their milk. This is the principal purpose of a Federal order.

In addition, the procedures required by the Act would afford all interested persons opportunity to take part in determining, through public hearing, what the various provisions of the order should be to insure the orderly marketing of milk on a continuing basis.

3. *Order provisions—A. Scope of regulation.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe the marketing area involved, and to specify the persons, plants and milk products to which the applicable provisions of the order relate.

(1) *Marketing area.* The Oregon-Washington marketing area should include all the territory geographically within the 26 Oregon counties, nine Washington counties and those portions of Lewis and Pacific Counties, Wash., listed below:

OREGON COUNTIES

Benton.	Lane.
Clackamas.	Lincoln.
Clatsop.	Linn.
Columbia.	Marion.
Coos.	Marrow.
Deschutes.	Multnomah.
Douglas.	Polk.
Gilliam.	Sherman.
Hood River.	Tillamook.
Jackson.	Umatilla.
Jefferson.	Wasco.
Josephine.	Washington.
Klamath.	Yamhill.

WASHINGTON COUNTIES

Benton.	Skamania.
Clark.	Wahkiakum.
Cowlitz.	Walla Walla.
Franklin.	Yakima.
Klickitat.	

In Lewis County, the town of Vader. In Pacific County, that portion not included in the defined area of Order 125 (Puget Sound, Wash.).

Further, the marketing area should include all piers, docks, and wharves connected therewith and all territory that now, or in the future, is occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments, if any part of such territory is within the designated geographical limits of the marketing area.

The northern sector of the marketing area is bisected by the Columbia River which, for the most part, marks the boundary between Oregon and Washington. This sector of the marketing area includes the tier of Washington and Oregon counties adjacent to the north and south shores of the river, respectively, and extends from the Pacific Ocean to and including the counties of Walla Walla and Umatilla in eastern Washington and Oregon, respectively.

Oregon is divided into two dissimilar sections by the Cascade Mountains which cross the State north to south about 120 miles from the ocean. West of the Cascades and parallel with the seashore is the coast range of mountains.

The two-thirds of the State lying to the east of the Cascade Range, particularly in the central and southern regions is generally sparsely populated. These eastern Oregon regions are not incorporated in the defined marketing area. On the other hand, all the Oregon counties lying astride and west of the Cascade Range are in the defined area, with the exception of Curry County, at the southwestern tip of the State.

Portland, Oreg., the largest population center in the marketing area (372,676 persons),[1] is situated at the confluence of the Columbia and the Willamette rivers. The entire valley area lying between the Cascade and coastal range of mountains, the northern part of which consists of the Willamette River Basin, is an area of intensive farming, including dairy farming. Most of the principal population centers of the State are located in this region, ranging geographically from Portland on the north through Salem, Corvallis, Albany, Eugene, Roseburg, Grants Pass, Medford, and Klamath Falls at the southern extremity of the State.

Located in the coastal area of the marketing area, north to south, are the cities of Astoria, Tillamook, Newport, North Bend, Coos Bay, and Bandon.

The Oregon-Washington marketing area is continguous to the Puget Sound Federal order market on the northwest and has the Inland Empire Federal order market at its extreme northeastern tip. Portland, the market's largest city is located 172 miles (by State highway distance) directly south of Seattle and 354 miles southwest of Spokane, the principal population centers of the respective nearby Federal order markets.

The population of the proposed marketing area is approximately 2.1 million. About 651,685 persons, or 31 percent of this total, reside in the urbanized area of Portland (Multnomah County), Oreg. This urbanized area includes most of the population of Multnomah County, and portions of Clackamas and Washington Counties, Oreg., and Clark County, Wash.

The urbanized area of Eugene (Lane County), Oreg., constitutes the next largest population center in the market: About 95,686 persons reside in the city and in contiguous divisions and subdivisions of Lane County.

Much of the marketing area is rural in nature, in large part due to the mountainous terrain. Of the 37 counties (or portions thereof) included in the area, 19 are classified by the census of population as less than 50 percent urban.

Because of a significant portion of sales of fluid milk products by handlers who would be regulated is in rural areas, and because of the relative density of population immediately surrounding the several cities, the marketing area should be defined, to the extent possible, on the basis of county boundaries.

Grade A milk products sold for fluid consumption throughout the proposed marketing area must be approved by health authorities who are governed by health ordinances, practices, and procedures patterned after the U.S. Public Health Service Grade A recommended milk ordinance. Also, the States of Oregon, Washington, and Idaho have reciprocal agreements with respect to the interstate movement of milk from handler facilities which are approved and rated under the U.S. Public Health Service Interstate Milk Shippers Code. Because of such reciprocal approval of responsible health authorities, there generally is free and unrestricted movement of Grade A milk both in bulk and packaged form among various locations in the market.

The Carnation Milk Co. has two bottling plants located within the proposed marketing area, one at Sunnyside (Yakima County), Wash., and the other at Portland (Multnomah County), Oreg. Both distribute Grade A fluid milk in the proposed marketing area.

Representatives of the Carnation Co. objected to the inclusion of the defined marketing area of the Washington counties of Yakima, Benton, Walla Walla, Franklin, and Klickitat, which they indicated cover, in large part, the primary sales area of its Sunnyside plant. These five counties (referred to throughout this discussion as the "five-county area") are located in Washington east of the Cascade Range.

This handler proposed that in the event the five-county Washington area should be regulated, then an additional six counties where they do business (three in Washington and three in Oregon) also should be included as a part of the defined marketing area. These counties are Asotin, Columbia, and Garfield in Washington, and Baker, Union, and Wallowa in Oregon (i.e., located in the southeastern and northeastern corners of the two States, respectively). Thus, it is the position of Carnation Co. that either all or none of this 11-county area should be regulated.

Controversy over the defined limits of the marketing area centered chiefly on the proponent associations' proposal to include in the marketing area the five-county area, and Carnation's proposal with respect to regulation of the contiguous Washington counties of Asotin, Columbia, and Garfield, and the Oregon counties of Baker, Union, and Wallowa.

A witness testifying on behalf of the Carnation Co. stated that Klickitat County is served from its Portland, Oreg., plant. Sales in the counties of Benton, Franklin, Walla Walla, Columbia, and Garfield account for almost half of the Sunnyside plant's total Class I distribution. Milk sold by Carnation in the remainder of the 11-county area originates at the Sunnyside plant. Asotin County,

[1] Population data shown throughout these findings are based upon the 1960 Census of Population unless otherwise stated.

Wash., and Wallowa County, Oreg., are not currently being served by Carnation although it was doing business in the two counties until recently.

There are seven other known bottling handlers whose plants are located in the five-county area whose business is more than local in character. There are no indicated bottling plants located in the three Washington and three Oregon counties conditionally proposed by Carnation to be regulated.

In addition to Carnation's Sunnyside (Yakima County) plant, there is the Tomlinson Dairy, Walla Walla; the Yakima City Creamery; a Mayflower Farms plant located at Yakima (Yakima County), Washington; the Reesman's Dairy, Toppenish (Yakima County); Twin City Creamery Co., Kennewick (Benton County); College Dairy, College Place (Walla Walla County); and Hulburt Dairy, a producer-distributor type operation located at Kennewick, Wash. The latter four handlers were not represented at the hearing. Their sales areas, however, range from several to all of the five counties of Yakima, Klickitat, Benton, Franklin, and Walla Walla.

The Tomlinson Dairy, located at Walla Walla (Walla Walla County), Wash., is a proprietary bottling operation. This handler receives his Grade A milk supply (about 70 percent) from nine producers, and supplementary milk (about 30 percent), for the most part during the school year, from a cooperative located at Meridian, Idaho. About 97 percent of the plant utilization is Class I.

The regular sales area of this plant includes the Washington counties of Benton, Columbia, Franklin, and Walla Walla. He expressed the necessity of regulating Asotin and Garfield counties as well as the area where he does business, or leaving it entirely unregulated if his operations are not to be unduly disadvantaged.

From 40 to 50 percent of Tomlinson's Grade A milk is distributed in Benton and Franklin Counties, Wash. This handler, however, is not currently selling milk in either Asotin or Garfield Counties although he has had sales in both counties in the past. Occasional sales are made in Yakima County, Wash., and Umatilla, Union, and Baker Counties, Oreg.

The Yakima City Creamery is a proprietary bottling and manufacturing plant located at Yakima, Wash. This handler receives his Grade A milk supply from 23 producers and distributes fluid milk products in Yakima and Benton Counties and, through a vendor, in Klickitat County. This handler stated that he neither supports nor opposes Federal regulation for his area.

Certain other handlers and producer groups offered testimony with respect to this northeastern segment of the proposed area under discussion.

A witness for Arden Farms contended that the Washington counties of Yakima, Benton, and Walla Walla are not an integral part of the Oregon-Washington marketing area and their regulation would pose the threat of encouraging greater Grade A milk production solely for use in manufacture-valued milk products.

The Arden Farms plant, located at Moses Lake (Grant County), Wash., is a bottling and manufacturing operation from which some Class I distribution (about 17 percent) is made in a portion of the marketing area proposed by the order proponents and as here adopted.

Of the total receipts at this plant, approximately 27 percent is milk which is pooled under the Inland Empire Federal order.

The proportion of total Class I sales in the Washington counties of Garfield, Columbia, Benton, Franklin, Yakima, and Walla Walla estimated to originate at the Moses Lake plant range from a low of 3 percent in Walla Walla County to highs of 20 and 30 percent in Columbia and Garfield Counties, respectively.

The Central Washington Jersey Milk Pool, Sunnyside, Wash., supplies some Grade A milk to the Moses Lake plant. This association also is opposed to regulation of the five-county area and the Washington counties of Grant, Asotin, Garfield, and Columbia. This producer group, and the Portland Independent Milk Producers Association (one of the order proponent associations), expressed concern that regulation of this area could result in the pooling of increased Grade A milk for manufacturing use.

It is concluded that the Washington counties of Yakima, Klickitat, Benton, Franklin, and Walla Walla are an integral part of the Oregon-Washington market and should be included in the defined marketing area.

As noted earlier, the distribution from plants closely associated with the Oregon-Washington market and regulated under Oregon law covers a wide geographic area and there is substantial overlapping of handler sales areas. The distribution routes from plants located in and near Portland, Oreg., for example, extend into the proposed Washington counties which are situated both to the west and east of the Cascades. Such routes overlap with sales routes of plants located within the controverted five-county area.

Similarly, there is an intertwining of route distribution of plants located in the five-county area with those of distributors located in contiguous Oregon counties to the south, now a part of the Oregon State regulated market and proposed herewith to be included in the Oregon-Washington marketing area.

Mayflower Farms distributes fluid milk products on routes in the five-county area from its plants located at Portland and Hermiston, Oreg. Fluid milk products are distributed also from its Yakima plant generally throughout the five-county area as well as in contiguous Oregon counties to the south. There is also a regular exchange of milk between the Mayflower Farms plant at Portland and its plants at Hermiston and Yakima. The association's branch distribution facilities located at Hermiston, Oreg., and at Kennewick, Walla Walla, Grandview, and Yakima, Wash., account for about 20 percent of the association's total Class I distribution under the State of Oregon order.

Distributing handlers regulated under Oregon law or under one of the nearby Federal milk orders (Puget Sound or Inland Empire) account for about 80 percent of the volume of fluid milk products sold in Klickitat County. About 30 percent originates from Carnation's Portland plant and 40 percent from the three plants of Mayflower Farms located at Portland and Hermiston, Oreg., and Yakima, Wash. Most of the remaining distribution is made by other handlers who would be subject to regulation under the proposed order.

The Mayflower Portland and Yakima plants together with a handler regulated under the Puget Sound order share about 40 percent of the total sales in Yakima County. About 20 percent of the total sales volume in this county is distributed by the Yakima City Creamery, the only other large bottling plant located in the city of Yakima. Other persons who would be subject to regulation if the order were issued account for the remaining sales in Yakima County.

Distribution of fluid milk products in Benton, Franklin, and Walla Walla Counties by Mayflower Farms, the Carnation's plant at Sunnyside, the Yakima City Creamery and to some extent from a Seattle regulated plant, is intertwined with distribution by Tomlinson Dairy Farms, the Twin City Creamery, Hulburt Dairies, and College Dairy, the latter four plants being located in this three-county area.

The only other distributor located outside the five-county area and having significant sales therein is the Arden's plant at Moses Lake (Grant County), Wash. Of the eight plants located within the five-county area (listed earlier in this discussion) the Carnation's Sunnyside plant and Tomlinson's at Walla Walla are known to distribute fluid milk products outside the marketing area here defined. Such distribution is limited generally to the Washington counties of Garfield and Columbia, and to the Oregon counties of Union, Baker, and Wallowa. It was not shown that such sales are substantial with respect to either plant.

It was not established that the inclusion of Asotin, Columbia, and Garfield Counties is necessary to insure orderly marketing. There are no plants located in these counties which are very sparsely populated. The only communities with population in excess of 2,000 people are Dayton (2,913) which is a few miles from the proposed boundary and Clarkston (6,209) which is on the west bank of the Snake River at a point where it forms the border between Washington and Idaho.

If any Idaho milk is disposed of in these counties at the present time, it is confined to the area in Asotin County adjacent to the city of Clarkston. The remainder of the sales in these counties are made by handlers who will be fully regulated under the proposed order, and

by plants regulated under the Inland Empire order. In view of the sparse population and the insignificant volume of milk involved, it is concluded that the Washington counties of Asotin, Columbia, and Garfield should not be included in the marketing area.

Proponents of a proposal to include Grant County, Wash., in the defined marketing area offered no testimony or evidence in its support. Testimony of other producer and handler witnesses generally was opposed to its regulation. Its inclusion in the area does not warrant further consideration at this time.

The three Oregon counties of Baker, Union, and Wallowa are each very sparsely populated. They are primarily the sales area of handlers associated with other (Idaho) markets.

The Meadow Gold Dairy, a fluid milk plant located at Boise, Idaho (a division of Beatrice Foods Co.), is estimated to bottle and distribute (directly and through vendors) 80 percent of the total volume of milk sold in Wallowa, 56–60 percent in Baker, and 50–55 percent in Union County. This handler testified in opposition to regulation of the three Oregon counties.

The Carnation Co., proponent of regulation for the three eastern Oregon counties, is shown to distribute from its Sunnyside plant an estimated 25 to 35 percent of the total sales volume in Baker County, and 15 percent in Union. Its sales in Wallowa County ceased within the last year.

It is concluded, therefore, that the Oregon counties of Baker, Union, and Wallowa should not be included in the marketing area. Total sales in the these counties are insignificant and in none of them do handlers, who would otherwise be regulated, dispose of as much as half of the fluid milk products sold therein. Their inclusion would result in at least partial, and perhaps full, regulation of the Boise plant whose primary sales area is in Idaho and whose only competition with handlers who would be regulated by the order occurs in these counties.

A witness testifying on behalf of both a fluid milk plant located at Klamath Falls (Klamath County), Oreg., and a cooperative association of 18 Grade A producers supplying milk thereto supported the inclusion of Klamath County in the marketing area. A substantial majority of the fluid milk sales in Klamath County are made by the plant at Klamath Falls and by other handlers who would be regulated by the order. The remaining disposition originates at a plant located at Weed (Siskiyou County), Calif.

It was the testimony of this witness that the Klamath Falls plant would be placed at a serious disadvantage in competing with the Weed plant if Klamath County were not included in the marketing area, thus insuring at least partial regulation of the Weed plant. It is possible that the volume of milk sold in Klamath County by the Weed plant is sufficient to bring it under full regulation by the order. Since its principal competitor in California is the plant at Klamath Falls, full regulation would not materially affect the competitive situation of the Weed plant with respect to its California sales.

It is concluded that Klamath County is an integral part of the Oregon-Washington market and should be included therein. No one expressed opposition to its inclusion.

The hearing notice contained a handler proposal to include also the county of Curry in Oregon. Curry County is located at the southwestern tip of the State and is sparsely populated. The city of Brookings with a population of 2,637 is its largest consuming center. Proponent handler was not represented at the hearing and there was no support on the record for its inclusion in the regulated area. Testimony related to this area was generally in opposition to its regulation. There is insufficient evidence on which to include it at this time.

A question could arise in the operation of the order as to whether piers, docks, wharves, and any territory occupied by Government (municipal, State, or Federal) reservations, installations, institutions or similar establishments located within the marketing area shall be considered as a part thereof. Such facilities constitute regular outlets for milk of handlers who would be regulated. So there will be no doubt as to the point of delivery of products disposed of to such an installation which may straddle a county boundary, the entire area encompassed by such a facility is made a part of the marketing area.

Although some of the route disposition of handlers to be regulated will extend beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to stretch the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass the great bulk of the fluid milk sales of handlers to be regulated.

Nevertheless, all producer milk received at regulated plants must be classified and priced under the order regardless of whether it is disposed of inside or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing, and pooling, such a handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective minimum price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chose, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the June 19, 1964, decision (29 F.R. 9213) supporting amendments to several orders, including orders effective in the Western States. The conclusions of this decision are adopted herein as applicable to marketing conditions in the Oregon-Washington marketing area.

The operator of the partially regulated plant is afforded the options of (1) paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

(2) *Milk to be priced and pooled.* The milk which is eligible for pooling under the order should be that which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants substantially engaged in serving the fluid needs of the order market.

It is concluded elsewhere in this decision that a marketwide system of pooling proceeds for Grade A milk received from dairy farmers at pool plants is essential for the promotion of efficient and orderly marketing of milk in the marketing area.

It is also concluded that delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing and pooling provisions of the order. It must necessarily apply uniformly to all plants.

The standards for pool participation are discussed below in connection with the definition of a pool plant.

Any plant regardless of its location should have equal opportunity to comply with the standards of regulation and have its producers share in the available Class I sales. Whether the plants and producers choose to supply the market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs and alternative outlets.

The specific standards of performance which may be used to determine which plants and what milk constitute the regular sources of supply, and therefore should be fully subject to regulation, may be identified by appropriate definition of the terms "route," "distributing plant," "supply plant," "pool plant," "nonpool plant," "handler," "producer," "producer-handler," "producer milk," and "other source milk."

Plant definitions. Definitions of the various types of plants to be regulated are needed to assist in identifying the particular operations which are to be subject to regulation and to simplify the drafting of the other order provisions. Under each of the plant definitions herein provided, all the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk and milk products, are considered as operations of a plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another tank truck, or as a distribution depot for storage of packaged fluid milk products in transit for route disposition, should not be considered to constitute a plant.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards are provided. A "distributing plant" under the order would include both a plant that is approved by an appropriate health authority for the processing or packaging of Grade A fluid milk products and has route disposition in the marketing area during the month, and a plant which has route disposition of filled milk within the marketing area during the month. The term supply plant would include both plants approved by an appropriate health authority which supply Grade A milk to distributing plants and plants which supply filled milk to distributing plants.

Route definition. To assist in the identification of those plants which are to be subject to full regulation a definition of "route distribution" is provided.

"Route disposition" means the delivery of any fluid milk product classified under the order as Class I to retail or wholesale outlets other than a delivery to another plant or to a distribution point.

Fluid milk products may be moved from a milk plant to a facility such as a warehouse, loading station, storage plant or other transfer point on the way to a wholesale or retail outlet. The distribution from such latter point would be considered as a route from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

Disposition by a vendor is treated as route disposition of the plant at which the milk was processed and packaged.

The order should make it clear that packaged products which are classified as Class I when transferred from a distributing plant to a pool distributing plant shall be considered route disposition from the transferor plant, rather than from the transferee plant. In other words, the second plant would be considered to be operating as a vendor for the plant of origin with respect to such disposition. There is a substantial exchange of bottled milk among plants, particularly the cooperative association plants. Since some of these plants dispose of a large percentage of their bottled milk to other cooperative associations which distribute it, this provision will assist to insure the continued pool plant status of the plants in which the milk is bottled.

Pool plant definitions. A distributing plant would qualify as a pool plant under this order in any month in which (1) at least 30 percent of the total receipts of Grade A milk at such plant (exclusive of receipts of packaged fluid milk products from other distributing pool plants and milk received by diversion from other pool plants or from other order plants) are route disposition, and (2) at least 15 percent of the total Grade A receipts at the plant is route disposition in the marketing area. These requirements are designed to exclude from the pool those plants which have only an incidental association with the market. Any plant with 15 percent of its Grade A milk as route disposition in the marketing area would have an effect on this market warranting full pooling.

In applying the pool plant provisions, if a portion of the plant does not have Grade A approval for receiving, processing, or packaging fluid milk products and is physically separated from the Grade A portion of the plant, such portion should not be considered a part of the pool plant. A number of the plants which will be pool plants receive milk of manufacturing grade from dairy farmers. Only the Grade A receipts would be considered as received from producers under the order.

The performance standards set forth above will permit the inclusion in the market pool of the regular supply of producer milk for fluid use in the defined marketing area. Many of these plants are located in a region of heavy milk production relative to population. Hence, the opportunity for making fluid sales locally is limited. Only about 60 percent of the producer milk which would be regulated is now used in Class I on an annual average. There are variations in the percentages of Class I use among plants and month-to-month differences in the same plants. Hence, the minimum percentage of Class I use which each distributing plant must maintain to be pooled should be fixed low enough to accommodate the operation of all those plants which are the regular source of supply for the market.

In the case of a handler operating more than one distributing plant, it should be provided that the combined receipts and Class I disposition of all such plants may be used as the basis for meeting the minimum 30-percent requirement. This was requested to permit more efficient utilization of plant facilities. To prevent inclusion in the market-wide pool of a plant whose primary association is with another market, however, it is necessary that each plant in such a system continue to meet the requirement that at least 15 percent of its total Grade A receipts be route disposition within the marketing area during the month.

The definitions of "producer" and "pool plant" are needed to identify and qualify for pooling the milk approved for fluid use and regularly supplied for such purpose. The record is not clear that similar health regulations have been established for the sources of filled milk. The order provisions should not result in pooling milk from unapproved and intermittent sources with milk of farmers regularly supplying milk approved for the fluid market. Therefore, the determination of whether a plant is qualified for pooling should not depend in any way on its disposition of filled milk in the marketing area. Hence, receipts and disposition of filled milk are excluded in the determination as to whether a plant qualifies for pooling.

Any plant which has route disposition of less than an average of 300 pounds per day in the marketing area during the month should be exempt from regulation except for the filing of reports. A plant with such limited distribution is not likely to have a significant disturbing influence in the market. The administrative expense involved in verifying the receipts and utilization and testing the butterfat content of the receipts and disposition of such a small operation would far outweigh any benefits accruing from its regulation.

A distributing plant meeting the pooling requirements of more than one order should in general be regulated under the order covering the area in which it has the greater proportion of its distribution. However, recognition should be given to the adverse effects of any temporary shifting to and from another market from month to month by a plant regularly associated with the Oregon-Washington market. A handler operating a pool distributing plant which has been subject to regulation under this order,

and which continues to meet the pool plant standards provided herein, generally should not become subject to another order unless it has more route disposition in such other marketing area than in the Oregon-Washington marketing area for 3 consecutive months. This will afford the handler reasonable notice as to the time when regulation of his plant may shift from one order to another and will afford him the opportunity to make adjustments in his business if he desires to do so.

If, nevertheless, the provisions of the other order require such plant to be pooled thereunder, the plant should be exempt from regulation under this order to prevent duplicate regulation. In order that the market administrator may be fully apprised of the status of such a plant, however, the operator thereof should be required to make reports of the total receipts and utilization or disposition of skim milk and butterfat at the plant to the market administrator at such time and in such manner as the market administrator may require and he must allow verification of such reports by the market administrator.

Provision should also be made to exempt from regulation under this order a distributing plant under another order which, for 1 or 2 months, may have greater route disposition in this marketing area than in the area of the order to which it has been subject to regulation if such other order would continue to regulate.

A supply plant would qualify as a pool plant under this order in any month during which 30 percent or more of its receipts of Grade A milk from dairy farmers is shipped as fluid milk products to a pool distributing plant.

The performance standards for pool supply plants recognize the dual function of the supply plants in the market which is to ship milk to distributing plants when it is needed for fluid use and to manufacture the excess when it is not needed by distributing plants.

These shipping requirements will make it possible for those supply plants which have been a regular source of supply for the distributing plants in the market to achieve pool status. They will exclude from pooling specialized manufacturing plants which might make token shipments to pool distributing plants. Higher standards could result in requiring plants which have had a long association with the fluid market to engage in unnecessary and uneconomical transfers of milk to meet such higher standards.

Demand for milk from supply plants is usually greatest during the season of low production. During the months of flush production the direct farm supply of milk received at a pool distributing plant may be sufficient to supply its Class I outlets. During this part of the year it would be more economical to leave the milk received at supply plants in the country for manufacture into dairy products at such plants and use the milk received directly at distributing plants for Class I use.

The performance provisions should not force milk to be transported to distributing plants in the months of seasonally high production in order to maintain the eligibility of supply plants to pool.

Any supply plant, therefore, which meets the 30 percent shipping requirement as described for each of the months of August through February would be granted pool status during the following months of March through July without specified shipments. Such pool status would be automatic unless the operator of such plant notifies the market administrator in writing before the first day of any such month that he desires to withdraw his supply plant from pooling. The plant thereafter would be a nonpool plant until it again met the shipping requirement set forth above.

The standards adopted herein for the pooling of distributing and supply plants are deemed to provide a reasonable and appropriate measure as to whether a plant is sufficiently identified with the market without, at the same time, excluding from pool participation handlers whose plants have been a regular and dependable source of fluid milk supply for the market.

If, in any month, a supply plant meets the requirements for pool status under more than one order, it is necessary to specify under which order the plant is to be regulated. Accordingly, if a supply plant meets the pooling requirements of this order and another Federal order, it will not be a pool plant under this order unless the volume of its Grade A receipts disposed of to pool distributing plants regulated by this order is greater than the volume disposed of to distributing plants pooled under such other order and it is not regulated under the other order.

In some markets reload points under the bulk handling method serve a function similar to that of a supply plant. The extent to which truck reloading facilities are now employed in moving bulk milk to this market is not clear from the record. In the absence of specific marketing data concerning reload points, it is concluded that a definition of reload point should not be included in the order. Such a definition and its application to pricing, location differentials, and performance requirements may be considered at some future time if it appears that such a provision would facilitate the orderly marketing of milk under the order.

Nonpool plants. A plant which supplies fluid milk to the market but in a lesser volume than that required to qualify as a pool plant under the standards set forth herein would be a nonpool plant. The term nonpool plant is further broken down to define some categories, such as "other order plant," "producer-handler plant," "exempt plant," "partially regulated distributing plant," and "unregulated supply plant." These terms are self-explanatory.

Handler definition. The main impact of regulation under an order is on handlers. As herein provided, the "handler" definition includes (a) any person (including a cooperative association) in his capacity as the operator of one or more pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool distributing plant to a nonpool plant for its account; (d) a cooperative association with respect to its member producers' milk delivered in a tank truck owned, operated by, or under contract to the association from the farm to a pool plant of another handler; (e) a person in his capacity as the operator of an other order plant; (f) a producer handler; and (g) any person in his capacity as the operator of an exempt plant.

Designating as handlers the operators of the various types of plants that may be associated with the market is necessary so that the market administrator may require of them the reports to determine the regulatory status of the plants and the extent of their obligations to the producer-settlement fund.

The record is not clear whether there is any governmental agency or institution (Federal, State, county, or municipal) which disposes of fluid milk products solely for use on its own premises or to its own facilities. Any such institution should be exempt from regulation except for the filing of reports when requested to do so by the market administrator.

While such an exempt institution would have no obligation to report regularly to the market administrator, the order should provide that if milk is purchased from a pool plant by such an institution, such sales by the pool plant will be classified as Class I. Any disposition of milk by such an institution to pool plants should be classified as Class III.

Milk which would be surplus to the fluid requirements of such institutions would not be a source of supply which could be depended upon to fulfill the regular requirements of the market. It would bear the same relationship to the marketwide pool as does the surplus of producer-handlers, and it should be allocated in the same manner as a receipt from a producer-handler. Accordingly, milk received from such institutions should receive a Class III classification.

Cooperative associations whose members are suppliers of milk for the market here under consideration generally assume the responsibility of balancing their buying handlers' supplies with such handlers' needs for fluid milk. Much milk not needed for fluid uses generally can be most economically handled by diversion directly to manufacturing plants. To facilitate such handling, a cooperative is accorded handler status for milk which it causes to be diverted to nonpool plants for its account.

When milk is picked up at the farm in a tank truck owned, operated by, or under contract to a cooperative association, and milk of several farmers is commingled in one load, it is the cooperative association that verifies the weight and butterfat content of the milk of each producer. Handlers who receive the milk have no control over and generally take no part in checking the weights and butterfat tests of milk at the farm. In some

instances, handlers may not even know the identity of the producers from whom their milk is received. The cooperative association, therefore, should be required to report to the market administrator the quantity of milk received from each producer. The association should be responsible for obtaining farm samples of the milk of each producer and for the testing of such samples.

A cooperative association which assumes the responsibility for the collection of milk at the farm in tank trucks and for the delivery of such milk to pool plants should be defined as the handler of such milk for the purpose of reporting the farm weights and tests of the milk received from producers and the quantities delivered to pool plants. In addition, the association should be accountable to the producer-settlement fund for any difference in the quantities of milk received from producers, based on farm measurements, and the quantities of milk which purchasing handlers report as received at their plants from the association. This is necessary to assure that cooperative associations, like all other handlers, account for all milk received from producers. The association would also account to the producer-settlement fund and pay the administrative assessment on any quantity of milk resulting from a difference between milk received from farms and that delivered to pool plants.

The milk received by a pool plant from the cooperative association as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual non-member producer.

Producer, diverted milk, and producer milk definitions. The term "producer" should include dairy farmers who regularly deliver Grade A milk to plants which are supplying fluid milk to the marketing area in the proportions specified in the pool plant standards adopted herein. Accordingly, the term "producer" distinguishes between farmers who meet the sanitary requirements for the production of Grade A milk and other dairy farmers whose milk may be qualified only for use in the manufacture of dairy products.

The term "producer" should not include a person with respect to milk diverted to a pool plant from another order plant if the operator of both the diverting plant and the pool plant of receipt report such milk as diverted and have requested Class III classification in the reports of receipts and utilization filed with their respective market administrators. This will facilitate the handling of reserve supplies of all order markets in the Northwest without burdening one market with the surplus production of another.

"Producer milk" should be defined to include all skim milk and butterfat in Grade A milk received at a pool plant directly from a dairy farmer or from a cooperative association in its capacity as a handler. Producer milk would also include milk diverted under certain conditions from a pool plant to a nonpool plant by either a handler operating a pool plant or by a cooperative in its capacity as a handler diverting milk for its account. This definition will facilitate application of the various order provisions by specifying that milk for which each handler shall be responsible for paying the class prices established by the order according to his use of milk.

Although a producer establishes his affiliation with the market through delivery of milk to a pool plant, his milk occasionally may not be needed at pool plants. This is due to the day-to-day and seasonal variation in both production and sales. The variation in day-to-day sales is influenced in large part by the fact that most bottling operations are not conducted on a 7-day-a-week basis. Such milk can sometimes be used efficiently by diverting it directly from the farm to a nonpool manufacturing plant. In such cases the movement of such milk to a nonpool plant should be facilitated.

The order should provide that a dairy farmer may retain producer status under certain conditions with respect to his Grade A milk diverted to a nonpool plant for the account of a handler. For the months of March through July when production is heaviest, handlers should be permitted to divert to nonpool plants without limit the milk normally received from producers who are not members of a cooperative association which is diverting member milk in the same month. In all other months the amount which may be diverted should be limited to a quantity not greater than that received at pool plants.

Likewise, a cooperative association should be permitted to divert to nonpool plants member producer milk without limit during the months of March through July, and in other months up to an amount equal to the volume of member producer milk physically received at pool plants. However, producer status with respect to a dairy farmer whose milk is so diverted during the months of August through February would be contingent also upon the receipt of his milk at a pool plant on at least 3 days during the month. This will assure that the individual producer continues to make his milk available to the fluid milk market.

The percentage basis for computing limits on milk diversions will provide the flexibility needed by cooperatives and pool handlers to serve the market efficiently. It will not affect the pool adversely.

Should milk receipts from dairy farmers be diverted in excess of the limit set forth herein, the diverting handler must specify the dairy farmers whose milk was overdiverted and all of the milk of such dairy farmers not actually received at a pool plant during the month shall not be producer milk in such month.

Should the diverting handler fail or refuse to designate which producers' milk was overdiverted, all milk diverted by the handler during the month shall not be producer milk in such month.

Milk diverted to a nonpool plant will be considered as received by the diverting handler at the location of the plant to which diverted, for purposes of pricing such milk.

In order to preclude duplicate regulation of milk, provisions should be made for excluding as producers, persons whose milk is diverted to a plant at which such milk is subject to the price and payment provisions of any other order.

Under no circumstances would a delivery of producer milk from the farm to the plant of a producer-handler or an exempt plant be considered as "diverted milk".

To facilitate administration of the order and reduce bookkeeping, it is provided that milk which is caused by a handler (either cooperative or proprietary) to be delivered from the farm to the pool plant of another handler for Class III use may be treated as diverted milk if it is so reported by both handlers. This will permit the diverting handler to maintain all the milk of the producers involved on his producer payroll for the month and the transaction would be handled as though it were an interhandler transfer. Otherwise, each handler would be accountable to the pool for that portion of the producer's milk which was received at his plant.

Producer-handler definition. The term "producer-handler" should apply to any person who both produces milk on his own farm and operates a plant from which fluid milk products are distributed in the marketing area.

The producer-handler maintains control of his own milk from its source at the farm until its ultimate disposition. When an individual operates a dairy farm and a fluid milk business in such manner, it has not been necessary to require him to account for milk produced on his own farm at a particular minimum price. The producer-handler assumes the burden of maintaining the necessary reserve supply of milk associated with his fluid milk operations and of disposing of any daily or seasonal surpluses he may produce.

The extent of competition of producer-handlers with regulated handlers in this market makes it appropriate that exemption from pooling and pricing be contingent upon his meeting certain requirements. Such requirements are necessary to assure that his sales of milk will not have a disruptive effect on the orderly marketing of milk in the regulated market.

The definition of a producer-handler under this order varies from that of the present Oregon regulation. Under the latter such a person is permitted to purchase virtually unlimited quantities of milk from Oregon regulated plants or directly from the farms of dairy farmers who are members of a cooperative association without losing his status as a producer-handler. Such purchases are classified and priced as Class I under the Oregon law and the selling handler is required to account to the Oregon pool for such sales as Class I milk. Since the

producer-handler has a sales quota under Oregon law which he cannot exceed without reimbursing the Oregon pool, he is not in a position to use such milk to secure Class I sales which would otherwise accrue to the dairy farmers in the marketwide pool.

Another feature of the Oregon regulation which differs from a Federal order is that which permits a producer-handler to bottle within certain limits, the milk of other producer-handlers.

The Oregon law, moreover, completely exempts from regulation any producer-handler who has less than 26 cows and who purchases no milk in either bulk or packaged form.

Under the order contained herein a producer-handler is not permitted to receive fluid milk products in bulk from any source except his own farm production. Since there are no sales quotas under the Federal order, to permit a producer-handler to supplement his own production with unlimited receipts from other producers whenever his Class I sales exceed his own production would result in the pool producers bearing the entire burden of the surplus associated with such milk.

Neither is a producer-handler permitted to bottle milk for another producer-handler. Were this to happen both producer-handlers automatically would lose such status and would become fully regulated handlers and pool producers. The receipt of milk at the bottling plant would be considered a receipt from a producer and the milk packaged and sold would be considered as sold by a handler.

As long as he retains his exempt status, the only obligation imposed on a producer-handler by the order is to file periodic reports with the market administrator and permit the verification of same. The purpose of these reports is to permit the market administrator to verify that the operation continues to be a bona fide producer-handler. Such reports are necessary regardless of the size of the producer-handler.

Under the order contained herein, a producer-handler is not permitted to receive fluid milk products in bulk from any source except his own farm production. He is permitted to purchase fluid milk products (other than whole milk) in consumer packages from pool plants during the month in an amount that does not exceed a daily average of 100 pounds.

Some orders permit producer-handlers to receive small quantities of milk in bulk from pool plants to take care of emergencies that may arise. The testimony of several producer-handlers who testified at the hearing was that such an allowance probably was not necessary and that a person to enjoy producer-handler status should rely entirely on milk of his own production. At least one of the persons who so testified (a producer-handler as defined under the Oregon statute) purchases, however, substantial quantities of milk at the present time to augment his own production.

Although not permitted to purchase fluid milk products in bulk, producer-handlers should be enabled to purchase a limited quantity of fluid milk products (other than whole milk) in packaged form from pool plants. There are a great many small producer-handlers in the Oregon-Washington marketing area. Because of their small volumes of milk, it might not be feasible for many of them to process fluid milk products other than bottled milk. Permitting them to purchase from pool plants in packaged form up to 100 pounds per day of such items as flavored milk and milk drinks, buttermilk, creams of varying tests, etc., should be sufficient to accommodate their needs in this respect. The limit of 100 pounds per day will assure that the producer-handler does not rely on such packaged products to balance the variation in his own production.

These provisions do not preclude a producer-handler from receiving and distributing nonfluid milk products such as butter, cheese, ice cream etc., which may be purchased from other sources. They would, however, prevent him from receiving nonfat milk solids for reconstitution for use as skim milk in beverages of any sort, including filled milk.

Receipts of milk at a pool plant from producer-handlers should be considered as receipts of other source milk. Otherwise, producer-handlers who do not share their own Class I sales by pooling would share in the Class I sales accruing to producers in the market. At the same time the producer-handler would not be bearing his proper share of the reserve supplies associated with his Class I sales.

The definition of producer-handler should accommodate a situation peculiar to this market. One person who is a producer-handler under the Oregon statute and who expects to qualify as a producer-handler under any Federal order has for some time been a vendor for one of the large handlers in the market. At the same time he has furnished certain packaged fluid milk products to this handler for distribution by the latter.

To the extent that the sales of producer milk by the producer-handler, for which he acts as a vendor, do not exceed his packaged disposition to the pool handler, such sales do not burden the marketwide pool. With respect to sales of packaged Class I milk by a producer-handler to a pool handler for distribution, such sales definitely do replace pool sales to whatever extent they may exceed receipts of packaged Class I milk by the producer-handler from the pool plant.

Accordingly, it is concluded that if a producer-handler disposes of Class I milk in consumer packaes to a pool handler, 98 percent of such sales may be subtracted from the Class I utilization of the receiving handler to the extent that Class I milk in consumer packages has been transferred to the producer-handler. The remaining 2 percent will be treated as "shrinkage" to cover leakers, route returns, etc. and will be classified as Class III milk. If receipts from the producer-handler exceed disposition to the producer-handler, any excess shall be allocated to Class III use in the plant of the pool handler, just as would a receipt of bulk milk from the producer-handler. Otherwise, the producer-handler would be in a position to dispose of his surplus production for Class I use to the detriment of other producers on the market. If receipts of packaged fluid milk products by the producer-handler should exceed his transfers to the pool plant, the producer-handler would lose his exemption and become the operator of a pool plant.

Various business arrangements, involving superficial association with the milk production operation, may be used to acquire an appearance of true producer-handler operation. To preclude the use of such devices the order should provide that a producer-handler furnish proof satisfactory to the market administrator that (a) the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled is the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person. A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the status of such person's operation and to facilitate verification of transactions with other handlers.

Other source milk definition. A definition of "other source milk" is necessary to facilitate the application of the order to the various categories of receipts at a regulated plant.

Other source milk should include all skim milk and butterfat contained in or represented by (a) fluid milk products utilized by the handler in his operation (except producer milk, fluid milk products received from pool plants, and fluid milk products in inventory at the beginning of the month), (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of products other than fluid milk products which are not otherwise accounted for under the order.

In order to verify the actual utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the handler's disposition records. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between records of receipts and disposition. Otherwise, the handler with improper or incomplete records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products. Otherwise, a handler by failing to keep records of receipts of nonfat dry milk and similar products that can be reconstituted into skim milk or other

fluid milk products could gain a competitive advantage over other handlers in the market.

b. *Classification and allocation of milk.* A classified use plan should be established to insure that all milk and milk products handled by handlers fully or partially regulated under the order are fully accounted for according to the various uses in such handlers' plants. Milk is disposed of in the market in a wide variety of forms, representing different proportions of butterfat and skim milk components of milk. These proportions may be greatly changed from the proportions of butterfat and skim milk in the milk as first received. Accounting for milk and milk products on a skim milk and butterfat basis is the most appropriate means of securing complete accounting on all milk and milk products involved in the market transactions.

This accounting system, common in Federal orders, will insure uniformity in application of the classification and pricing provisions of the order to handlers.

Fluid milk product. A definition of "fluid milk product" is provided in the order.

"Fluid milk product" means the skim milk and butterfat contained in milk, skim milk, buttermilk, flavored milk and milk drinks, cream (sweet or sour), mixtures of cream and milk such as "half and half," concentrated milk and filled milk. Except as specifically noted below, the term includes these products in either fluid or frozen form and regardless of whether additional nonfat milk solids have been added.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat were used or disposed of, as Class I, Class II, or Class III milk.

Milk is received by handlers directly from dairy farmers, from other handlers, and from other sources. Milk from all these sources may be commingled in the handler's plant. It is also necessary, therefore, to have a plan for allocating the uses of milk to each source of supply in order to afford a means to establish the classification of producer milk and to apply class prices thereto.

The Class I classification adopted herein is virtually identical to that contained in the present Oregon statute. The products included in Class I are those fluid milk products for which handlers require a regular and dependable supply of high quality milk. They are bulky, highly perishable and must be processed on a day to day basis.

Accordingly, Class I milk should include all skim milk and butterfat disposed of in the form of a fluid milk product as defined herein. Further, any product not specified in Class II or Class III milk and any milk that cannot be accounted for by the handler (other than shrinkage within the limits permitted in Class III) would be classified as Class I. Class I, however, should not include sterilized cream (including mixtures of cream and milk or skim milk) aseptically packaged or any of the above products which are sterilized and in hermetically sealed all-metal containers.

Proponent cooperatives urged the inclusion in Class I of yogurt and eggnog. Handlers opposed such classification. Under the present Oregon regulations, yogurt and eggnog are classified as Class II milk. Neither product is classified as Class I in the adjoining Federal order markets, being classified as Class II in the Puget Sound marketing area and as Class III in the Inland Empire marketing area. In the absence of any substantial evidence in the record to support a Class I classification, these items should not be classified as Class I under the order at this time.

Producers specifically proposed that filled milk be classified as a Class I item. At the present time, this product is classified and priced as Class I milk in the State of Oregon but may not be distributed in the Washington portion of the marketing area.

A hearing held at Memphis, Tenn., in February, April, and May 1968 (33 F.R. 2785) dealt with the appropriate classification treatment in all Federal order markets of filled milk and certain other products containing milk or milk derivatives which are disposed of in fluid form. Evidence was received as to the need for a coordinated program of classifying such proucts in all Federal order markets. A recommended decision based on the Memphis hearing was issued on June 17, 1969. The findings and conclusions adopted therein are similar to the findings and conclusions of this decision with respect to the classification of filled milk.

Skim milk disposed of for fluid consumption in "filled milk" should be classified as Class I milk.

The product marketed as "filled milk" is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and butterfat in whole milk. Hence, well over 90 percent of the product is skim milk. In filled milk the skim milk portion may be either fresh fluid skim milk as separated from whole milk or reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. Whether made from vegetable fat and fresh or reconstituted skim milk, or any combination thereof, the resulting product resembles whole milk in appearance.

Filled milk is distributed by milk handlers in the course of their regular business through the same outlets and in the same types of containers as whole milk.

As noted above, the skim milk in the product is now classified and priced as Class I milk under the Oregon regulations. Likewise it is classified and priced as Class I milk in most Federal order markets. Skim milk is the principal milk product involved in the classification since the residual butterfat in the skim milk would be minimal.

The evidence in the present hearing record supports the classification of skim milk and butterfat utilized in filled milk as Class I disposition.

The Act specifically provides that each order shall contain terms "* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *". In applying the language of the Act we must consider the form and the purpose of use of both the filled milk and its milk ingredient content.

The form of filled milk and the purpose for which it is used are the same in form and purpose of use as whole milk. Filled milk is disposed of in fluid form in semblance of whole milk. Handlers market it in the same types of packages and in the same trade channels as the whole milk they sell. It is primarily intended as a beverage substitute for whole milk.

Similarly, the fluid skim milk content of the filled milk is in the same form as the skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification.

This classification of the product recognizes further that the Class I price level serves to assure an adequate but not excessive milk supply. Hence, the skim milk (or butterfat) in both products, and in other fluid milk products, should make proportionate contributions to this objective and returns to dairy farmers for the corresponding milk components of the two products should be the same.

The product "filled milk" therefore should be classified, for the purpose of pricing under the order, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification should apply only to the milk ingredients in the product.

Some handlers opposed Class I classification on the ground that the product can be reconstituted from nonfluid ingredients and hence should be classified as other than Class I. In view of the preceding, the handlers' proposal is not adopted.

Producers proposed to exclude from Class I only those sterilized fluid milk products that are packed in hermetically sealed metal containers. Producers contended that the product when sold in the foil-lined paper carton should be classified and priced as Class I the same as any other fluid cream in a paper carton. They claimed that its alleged asepsis and 6-week shelf life do not sufficiently distinguish it from ordinary pasteurized cream to warrant a different classification. They further stated that even should a distinction be made, the product should be classified and priced as Class I since its sales replace those of fluid cream which otherwise would accrue to the benefit of pool producers.

A witness appeared for the Avoset Co., a California concern which packages sterilized cream in glass and foil-lined paper cartons. It is the position of the

Avoset Co. that its product should be classified as Class III. It is claimed that the foil-lined carton, though it permits the passage of air into and out of the container, does prevent rapid microbial spoilage. It is further claimed that the product is completely aseptic, has a long shelf life and therefore should be classified the same as sterilized products in all-metal containers.

At the present time, the product is classified and priced as Class I under many Federal orders which exclude from Class I only those sterilized products which are packaged in hermetically sealed metal or glass containers. In other orders, its classification depends on whether the foil-lined carton is considered to be hermetically sealed.

Under the present Oregon regulation the product is not classified as Class I.

On the present record the product should be classified as Class II. Its distribution in the market is very limited at the present time. It is not made in any plant which would be subject to regulation. Handlers merely act as jobbers for the product which is processed in California. Since it also provided that the product be deducted from Class II in the allocation procedure, handlers will not incur any obligation to the pool as a result of handling it.

Should the product be manufactured in a pool plant, the handler would desire a dependable supply of high quality milk as he does for cottage cheese, ice cream, and other products classified as Class II. It should be classified in the same class. Other cream products such as half and half which are sterilized and aseptically packaged should also be classified as Class II.

Under some circumstances, nonfat milk solids may be used to increase the normal nonfat milk solids content in the preparation of fluid milk products distributed in the marketing area. For the purposes of accounting for the skim milk required to produce such products, the added nonfat milk solids should include the normal quantity of water originally associated therewith. The volume of the fluid milk product to which nonfat milk solids had been added, to be classified in Class I, would be the quantity equivalent to the volume of the same product made without the addition of nonfat milk solids. The remaining volume of the product, which represents the skim milk equivalent of added nonfat milk solids, should be classified as Class III.

In the case of products which are wholly or partially reconstituted from nonfat milk solids, such products would be accounted for by adding to the nonfat milk solids the normal quantity of water originally associated with the solids and the entire volume would be accounted for as Class I.

Inventories of fluid milk products at the end of each month enter into the accounting for a handler's receipts and utilization. To facilitate the accounting procedure, the month-end inventories of bulk fluid milk products should be classified in Class III. In the following month, they would be subtracted under the allocation procedure first from any available Class III milk and then, in sequence, from Class II and Class I. The higher use value of any such skim milk and butterfat allocated to Class I or Class II in the following month would be reflected in returns to producers.

Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. This classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in fewer adjustments in classification and handlers' obligations than if classified in Class III as in the case of bulk milk.

To insure that all handlers pay the current month's Class I milk price for Class I dispositions during the month, it is provided that if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of ending inventory assigned to Class I milk in the preceding month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

Inventories would include only the skim milk and butterfat in bulk and packaged fluid milk products on hand at the end of the month. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to manufacture a milk product (and classified as Class II or Class III) such skim milk and butterfat would not be included in inventories.

Inventories of fluid milk products at the beginning of the first month in which this order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class III utilization of the plant during the month. This procedure will preserve the priority of assignment to current receipts of producer milk of the current Class I utilization of the plant.

Class II should include all skim milk and butterfat (including that in frozen cream, plastic cream and condensed milk and condensed skim milk, either plain or sweetened) which is used to produce ice cream, ice cream mix, frozen desserts and mixes therefor, eggnog, yogurt, cottage cheese, sour cream mixtures to which other ingredients have been added (commonly referred to as "dips") aerated cream products, and sterilized cream (including "half and half" and similar cream mixtures) which are aseptically packaged.

The items specified in Class II constitute a substantial and continuing outlet for reserve supplies of producer milk. The ice cream and cottage cheese market is a year-round market requiring a regular supply of high quality milk. Although there is no general requirement throughout the area that Grade A milk must be used in the manufacture of ice cream, ice cream mix and cottage cheese, there is a demand by handlers for Grade A milk for these uses. This has been recognized by the State of Oregon which has established a separate classification for these items priced higher than the price of milk used in butter, hard cheese, nonfat dry milk, evaporated milk, etc. Condensed milk and frozen and plastic cream are used in the manufacture of ice cream and when so used should be classified in the same class as ice cream.

A Class III classification should be established for milk used in the manufacture of other dairy products such as butter, cheese (other than cottage cheese) nonfat dry milk, dry whole milk, sterilized products in hermetically sealed all-metal containers, bulk evaporated milk, and condensed milk or skim milk reused in the production of a Class III product in a pool plant or in a nonpool plant located in the marketing area. These items are generally in concentrated form, are storable and compete on the national market with like products produced anywhere in the United States.

For convenience and economy of administration, it is necessary to distinguish between the use of condensed milk and condensed skim milk in Class II and in Class III. These condensed products when used in the manufacture of any other product here defined as Class II should also be classified as Class II. The Class III classification of these condensed products should be confined to that which is reused in the manufacture of a product such as evaporated milk or nonfat dry milk solids and that used in the fortification of a Class I product. The Class III classification will apply only when such reuse occurs in a pool plant or in a nonpool plant located within the marketing area.

The principal use of condensed milk and condensed skim milk is in the manufacture of ice cream, a Class II utilization. It is seldom hauled long distances for further processing into Class III products.

Condensed milk and skim milk, however, are frequently shipped to distant points for use in ice cream. The cost to the market administrator of verifying the actual use of such condensed products would be prohibitive. Hence, any condensed milk or condensed skim milk which is disposed of outside the marketing area, other than to a pool plant should be classified as Class II milk. This will obviate the necessity of the market administrator's being required to travel long distances to determine by audit the ultimate use of such product.

Class III should also include milk sold to bakeries, candy factories, soup companies, and similar outlets where nondairy foods are processed commercially. Manufacturers of such products are unwilling to pay a premium for Grade A milk for use in such items. There are supplies of manufacturing grade milk available to which such processors can turn if producer milk is priced higher than the going price of manufacturing milk.

Class III also would include inventories of fluid milk products not processed or packaged. It would include the skim milk equivalent of that portion of any nonfat milk solids which were added to a fluid milk product but were not classified as Class I.

Skim milk and butterfat in fluid milk products dumped or disposed of by a handler for livestock feed should be classified as Class III milk. Such outlets often represent the most efficient means of disposing of surplus skim milk. Transportation and handling costs are such that it is uneconomical to ship relatively small, sporadic quantities of unneeded skim milk to trade outlets for surplus disposal. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult or impracticable to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class III when dumped or disposed of for livestock feed.

It would not be practicable to permit the unlimited dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat (for which no better outlet is available) as other than Class III. Accordingly, a Class III classification is appropriate for the skim milk and butterfat in fluid milk products dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage." Since shrinkage represents disappearance of milk for which the handler must account, but for which no direct return is realized, it should be considered as Class III milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class III at each pool plant should be 2 percent of producer milk (except that diverted to a nonpool plant); plus 1.5 percent of producer milk from a cooperative as a handler and bulk fluid milk products from pool plants of other handlers; and less 1.5 percent of bulk fluid milk products transferred to other plants (except pool plants of the same handler). A 1.5 percent shrinkage allowance would be allowed on bulk fluid milk products received from other order plants and unregulated supply plants (exclusive of the quantity for which Class II or Class III utilization is requested by the handler).

As provided elsewhere in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is a handler under such conditions, the operator of a pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full 2 percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum shrinkage in Class III allowed the handler on such milk would be 1.5 percent, and the cooperative would be responsible for any difference between the gross weight of producer milk received in the tank truck at the farms and that delivered to pool plants. This procedure is followed in a number of other Federal orders and provides a reasonable basis for the allocation of the shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

In those instances in which a pool plant operator is not purchasing farm tank milk (from a cooperative as a handler) on the basis of farm weights, any difference between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant should be considered a receipt of producer milk by the cooperative at the location of the pool plant. The cooperative would report such differences, which may reasonably be expected to be within 0.5 percent of the quantity of producer milk determined on the basis of farm weights during the month, to the market administrator for inclusion in the monthly pool computation. Up to 0.5 percent of the total producer farm tank milk involved would be reported and pooled as Class III, and any such difference in excess of the maximum allowable Class III shrinkage of 0.5 percent would be Class I.

The cooperative would be responsible for settling with the producer-settlement fund for the total quantity of shrinkage it reported. If the quantity of bulk tank milk physically received at a pool plant from a cooperative during the month is the same as or greater than the sum of the farm weights, the cooperative would have no settlement to make with the producer-settlement fund on such milk. However, in those instances wherein the quantities of milk physically received at pool plants are greater than the farm weights, the pool plant operator's obligation to the producer-settlement fund would be on the basis of the weights ascertained at his plant.

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

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class III as shrinkage since these types of receipts are allocated pro rata to class uses along with the quantities received from pool plants and producers. Under the allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class III shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class III uses, since the allocation procedure insures assignment of such milk to Class III in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class III shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Transfers. Fluid milk products may be disposed of to other plants for processing. It is necessary, therefore, to provide specific rules so that the classification of such transfers may be determined under this order.

Fluid milk products transferred from a pool plant to the pool plant of another handler should be Class I unless both plant operators claim a Class II or Class III classification on their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee plant after the allocation of its receipts of other source milk. If other source milk (e.g., nonfat dry milk) to which a surplus value applies is received at the shipping plant during the month, the skim milk or butterfat in fluid milk products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. If the shipping handler receives other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

The above provisions governing transfers between pool plants will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Fluid milk products transferred or diverted to a nonpool plant (other than transfers to the plant of a producer-handler, an exempt distributing plant, or an other order plant) should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk and milk products in the nonpool plant. Such transfers to the nonpool plant should be assigned first to its Class I disposition in regulated areas and thereafter to other Class I usage after receipts from dairy

farmers who regularly supply the nonpool plant, and the remainder to the other uses of the plant. Provision should also be made for sharing the Class I utilization of the nonpool plant when transfers to the plant are made from other regulated plants.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Fluid milk products transferred to other order plants would be classified according to the utilization assigned them at such other order plants.

Allocation. Because the value of producer milk is based on its classification, the order must prescribe an assignment of receipts from all sources during the month to establish such classification.

The system of allocating handlers' receipts to the various classes should be basically the same as that adopted in the decision issued June 19, 1964, for 76 milk orders integrating into each order's regulatory plan, milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. Official notice was taken of that decision (29 F.R. 9110) at the hearing. Such decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources, and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Producers testified that the method adopted as a result of the June 19, 1964 decision, is appropriate in this area and is needed to coordinate this regulation in the treatment of unregulated milk and other order milk with other Federal orders.

The aforesaid decision sets forth also the standards for dealing with unregulated milk under Federal orders and the system of allocation included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable regulations on all movements of milk between Federal order markets. No testimony was offered in opposition to the incorporation of the same provisions in this order.

The findings and conclusions of the aforesaid decision are equally applicable in the proposed marketing area under current conditions and, accordingly, are adopted in their entirety as if set forth in full herein, subject to the modifications set forth below.

The allocation provisions specifically provide for treating filled milk which has been reconstituted from nonfat dry milk in the same manner as any other fluid milk product which has been so reconstituted.

The problems of proper classification and charge for use of nonfat dry milk to produce products for Class I disposition was specifically dealt with in the decision of June 19, 1964, referred to above. The method of treating reconstituted products described in that decision is appropriately applicable to reconstituted skim milk used in filled milk.

Skim milk and butterfat received in the form of Class II products should be allocated directly to Class II products disposed of from the plant even though they may be reprocessed as in the case of creaming cottage cheese curd or freezing ice cream. Such products are already in processed form when received and are intended only for use in the same category of products.

The allocation provisions should specify that receipts of fluid milk products received from a producer-handler in consumer packages may be subtracted from the Class I utilization of the receiving handler in an amount not in excess of the fluid milk products received in consumer packages by the producer-handler from the same pool handler. Any receipts in excess of the amount transferred to the producer-handler would be allocated to Class III. The reasons for this provision are discussed above in conjunction with the definition of producer-handler.

c. *Class prices.* In order to promote and maintain orderly marketing conditions, minimum class prices for producer milk must be established at levels that will reflect economic conditions affecting the market supply and demand for milk, and tend to maintain a supply of milk sufficient to meet the fluid needs of the market plus a reserve to care for daily fluctuations in demand.

It is estimated that slightly less than one billion pounds of Grade A milk will be received annually by handlers in the market who are expected to become fully regulated. Of this amount, approximately two-thirds is expected to be utilized in Class I products. Therefore, there is no indication that supplies are presently inadequate or in danger of becoming so.

The Class I price must not be so high as to attract unneeded supplies to the market. Such over attraction of milk would tend to result in uneconomic and unnecessary surpluses which would depress the uniform prices to producers. On the other hand, the price must be sufficiently high to encourage the production of the quantity of high quality milk required for the fluid needs of the market plus an adequate reserve.

The Class II price should be high enough above the manufacturing price to compensate producers for at least part of the cost of delivering sufficient Grade A milk to meet the needs of handlers for cottage cheese, ice cream, and related items for which handlers indicate a need to use Grade A milk. Conversely, the price cannot be so high that handlers will shift manufacturing grade milk or manufactured milk products for such uses.

The Class III price must be fixed at a level which will insure a market for milk produced in excess of the Class I and Class II requirements of the market, but high enough to discourage association with the pool of additional Grade A milk simply for use in manufactured dairy products.

Class prices, as well as uniform prices, to producers should be computed and announced on a 3.5 percent butterfat content basis. This will conform to prevailing practice in the market.

Class I price. For an 18-month period beginning with the effective date of the order, the Class I price for milk of 3.5 percent butterfat content should be established at an annual level of $1.95 ($1.75 plus 20 cents) per hundredweight above the basic formula price which would be the average price paid for manufacturing grade milk in Minnesota and Wisconsin during the preceding month. For the purpose of computing Class I prices, however, the basic formula price should not be less than $4.33. This will insure that the present basic formula price "floor" price in other Federal order markets will be the same in this market.

The method of adding a differential to such basic formula price in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. Prices for milk used for fluid purposes in the proposed marketing area have a direct relationship to the prices paid for milk used for manufacturing purposes.

A differential over manufacturing milk prices is necessary to cover the extra costs of meeting quality requirements in the production of milk for fluid uses and in transporting the milk to market. Moreover, it is a necessary incentive for dairy farmers to produce and deliver an adequate supply of quality milk to meet the demand for fluid milk.

Producers proposed that the Class I price be computed by adding a specified differential to a basic formula price. As the basic formula price, they proposed the Minnesota-Wisconsin manufacturing milk price series. This series is based on prices paid at a large number of manufacturing plants in each of the two States. Plant operators report the total pounds of manufacturing grade milk received from farmers, the total butterfat content and the total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the announced Minnesota-Wisconsin price is available on or before the 5th day of the following month. The Minnesota-Wisconsin price series is the basic formula price in most Federal order markets, including the Puget Sound and Inland Empire markets which abut the Oregon-Washington marketing area.

This price series reflects a manufacturing price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of such products within a highly coordinated marketing system which is national in scale. The series is appropriate for use in establishing milk prices under this order.

Since the Class I price for the current month would be announced by the 5th day of the month, the basic formula price used in computing the Class I price should be that reflecting the Minnesota-Wisconsin price for the preceding month. This procedure is commonly used in other Federal orders.

While the Class I differential proposed by producers was $2.10, the Class I price provided herein, together with Class II and Class III prices, should result in returns to producers sufficient to maintain an adequate, but not excessive, supply of quality milk for the fluid market. It also will result in appropriate alignment of the Class I price in this market with those in the Puget Sound and Inland Empire markets. In parts of southern Washington there is competition between handlers who would be regulated under this order and handlers regulated under the two existing Federal orders both in procurement of milk and in its distribution.

The Puget Sound order provides for a Class I differential $1.85 over the basic formula price. The Inland Empire order has a differential of $2.10. Under the present provisions, however, the latter may fluctuate as much as 50 cents in either direction as the relationship of supply to demand varies.

Until the middle of 1968, Oregon Class I prices averaged higher than the Puget Sound Class I price and about equal to the Inland Empire Class I price. The Oregon Class I price averaged $5.61 in 1966, $6.02 in 1967, and $6.13 in 1968. The Puget Sound Class I price averaged $5.55 in 1966, $5.88 in 1967, and $6.09 in 1968. The Class I price in the Inland Empire order was $5.71 in 1966, $5.97 in 1967, and $6.19 in 1968.

The Class I price provided herein would have been $6.28 per hundredweight in April 1969. This compares to a Class I price of $6.18 in the Puget Sound marketing area. For April the Class I price in the Inland Empire order was $6.28.

The Class I price fixed by the State of Oregon remained at $6.10 from June 1967 through October 1968; was increased to $6.25 on November 1, 1968, and to $6.40 on March 1, 1969. Official notice is taken of "The Stabilizer" vol. 5, No. 11, for February 1969, a publication of the Oregon State Department of Agriculture, Salem, Oreg.

The Class I price adopted herein, in April would have been 12 cents below the Class I price fixed by the State of Oregon. A differential of more than 10 cents over the Puget Sound Class I price, however, could result in a dislocation of supplies and induce Puget Sound producers, particularly those who do not hold a Class I base under that order, to shift from the Puget Sound to the Oregon-Washington market. A higher Class I price likewise could result in shifts of producers in the Columbia Basin area without an offsetting need for their milk in this market.

One handler proposed a special classification for fluid milk which is shipped to Alaska for Class I use. He proposed a price 30 cents over the uniform price for such milk.

He stated that the high cost of handling, particularly transportation and the wide fluctuation in the monthly requirements of their plant at Anchorage, Alaska, precludes payment of the Class I price for such milk.

There is no basis, when establishing the appropriate Class I milk price for this market, to distinguish between milk sold inside and milk sold outside the marketing area, whether it be in areas immediately adjacent to the market or at distant points such as Alaska. The milk sold outside the area by regulated handlers is produced under the same conditions as milk sold in the marketing area and is processed in the same plants. Thus, the milk moving through the handler's plant is involved in the same supply and demand considerations upon which the determinations concerning the appropriate Class I price level must be made.

If a lower Class I price were permitted on sales outside the area, it would be necessary to increase the price of Class I milk sold within the area to maintain the level of returns to producers needed for an adequate supply. To whatever extent a higher Class I price inside the marketing area would be reflected in higher prices to consumers within the marketing area, such consumers would be subsidizing those outside the marketing area where the lower Class I price prevails.

Neither should the regulation be constructed to encourage the use of outside markets as a dumping ground for milk in excess of the market's needs. A lower Class I price for milk sold outside the marketing area could have a depressing effect on prices paid to farmers by unregulated handlers in the outside market.

Class II price. The Class II price should be fixed at the Class III price plus 25 cents. This will result in a Class II price identical to that provided in the Puget Sound order. It will be approximately 2 cents per hundredweight higher than the Class II price which prevailed in the Oregon market during the year 1968.

This price will return to producers a differential over the price of manufacturing grade milk for milk used in those products which handlers normally make from Grade A milk to compensate producers for the delivery of milk for such uses. From experience in the Puget Sound and Inland Empire markets a differential of 25 cents over the Class III price will not discourage the continued use of Grade A producer milk in products such as cottage cheese and ice cream.

Class III price. The Class III price should be the basic formula price, but should not exceed the price resulting from a butter-nonfat dry milk solids formula.

Large quantities of the reserve milk of the market are utilized in the manufacture of butter, nonfat dry milk, hard cheeses, and other dairy products which are disposed of on the national market. Some milk utilized for Class I purposes in the market is handled at plants with limited manufacturing facilities. However, a number of plants which would be pool plants under the orders maintain substantial manufacturing operations. Throughout the year, particularly in the spring months of heavy production, producer milk not needed for fluid uses is moved to manufacturing plants by the handler who regularly receives the milk or by the cooperative association responsible for marketing such producer milk.

Prices paid by manufacturing plants may differ because of changes in the relative market prices of the manufactured products and because of variations in the quantities of milk available for manufacturing purposes. Handlers often will dispose of excess milk to those plants which are paying the highest price at the time of such disposal. Because of the relatively small volumes and lack of opportunity for high efficiency in handling, it is possible that some handlers may at times incur losses in handling their necessary reserve supplies of milk. The handling of such reserve milk is incidental, however, to the handling of fluid milk.

The price for manufacturing milk should be at a level which will provide the highest possible returns to producers in the market and at the same time encourage the orderly marketing of such milk. A Class III price based on the basic formula, which is the average Minnesota-Wisconsin manufacturing milk price, should adequately meet these pricing objectives. A competitive pay price is used because, in the highly competitive dairy industry, the average of prices paid in the areas where there is substantial competition for manufacturing milk provides a good measure of its value.

The Minnesota-Wisconsin price series is representative of prices paid to farmers for about one-half the manufacturing grade milk sold in the United States. In Minnesota about 84 percent of the milk sold off farms is of manufacturing grade and in Wisconsin about 58 percent. There are many plants in these States which compete for such milk supplies. This price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products.

A particular segment of the manufactured milk industry may be temporarily influenced by marketing conditions which do not affect the remainder of the industry to the same degree. Such conditions may not be fully reflected in the Minnesota-Wisconsin price series. Because of the importance of butter and nonfat dry milk solids as an outlet in this market, it is desirable that the Class III price not exceed a price level based on a butter-nonfat dry milk formula.

Use of this formula as a "ceiling" will insure that the Class III prices will continue to reflect the values of butter and nonfat dry milk in the event of a temporary divergence in the relationship between such values and the Minnesota-Wisconsin price which also reflects the values of other manufactured dairy products such as cheese and evaporated milk. It will prevent the Class III price from exceeding butter-nonfat dry milk values to the point that the cooperative association plants, which handle most of the reserve supplies of the market, will find it difficult to market the reserve supplies.

A similar alternate formula based on butter and nonfat dry milk values is used in a number of Federal order markets (including Puget Sound) in conjunction with the use of the Minnesota-Wisconsin price as a basis for pricing milk in manufacturing uses. The price is computed by using product yields and market prices for butter and nonfat dry milk and a "make allowance" (48 cents) in general acceptance. This formula will provide an upper limit on the minimum Class III price fixed by the order which is identical to that contained in the Puget Sound order and is appropriate to the similar conditions prevailing in this market.

Proponent cooperatives suggested a "make allowance" of 65 cents instead of the 48 cents adopted herein. It was their contention that conditions in the Oregon-Washington market were not as favorable as those in the Puget Sound market for the manufacture of dairy products. They pointed to the daily and seasonal fluctuations in the supplies of milk available to the manufacturing plants and the costs involved in assembling and transporting excess supplies to such plants. These conditions, however, are not significantly different from those encountered in handling the reserve supplies of any fluid milk market of this size with a significant manufacturing volume. Processors of manufactured products in this area have competed with processors in the Puget Sound market for many years and continue to do so. It would not be reasonable to provide the requested difference in prices under regulation in this market.

Butterfat differentials. Because of variations in the butterfat content of milk delivered by individual producers and in milk and milk products sold by different handlers, it is necessary to provide "butterfat differentials" to insure equitable payments reflecting such variations in butterfat.

The Class I butterfat differential should be 0.12 times the Chicago butter price for the preceding month, and the Class II and Class III differentials should both be 0.115 times the Chicago butter price for the current month.

The Class I butterfat differential is less than that provided in either the Puget Sound order (0.125 times the Chicago butter price) or the Inland Empire order (0.123 times the Chicago butter price). It is also less than the Class I butterfat differential effective under the present Oregon regulation.

In recent years nondairy cream substitutes, priced substantially lower than cream, have taken away a large part of the market for butterfat. If cream from producer milk is to maintain even its present share of the market, it must be priced more nearly competitively with cream substitutes. The Class I butterfat differential of 0.12 times the Chicago butter price will help to achieve that objective.

The Class II and Class III butterfat differentials at 0.115 times the Chicago butter price are at a level frequently used in milk orders, including Inland Empire, for pricing the butterfat in milk used in manufactured dairy products. It is identical to the level which has prevailed under the State regulation in Oregon.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the average value of their butterfat in the use classes provided in this order. The producer butterfat differential does not affect a handler's obligation and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

Location differentials. Location differentials should be incorporated in the order to provide appropriate adjustment in the Class I price and uniform price based upon the location of the plant at which the milk is received.

Class I milk because of its bulky and perishable nature incurs relatively high transportation costs when moved. Milk delivered directly by farmers to handlers' plants located close to the area where such milk is distributed to consumers is therefore more valuable to the handler than milk obtained from a plant many miles from the market since the handler incurs the cost of moving the milk from the plant of receipt to the market.

No location differential should apply to milk received at plants located in the Oregon portion of the marketing area (except Umatilla County), or in California. In Lewis and Pacific Counties, Wash., the location differential should be 20 cents per hundredweight. At any other location more than 100 highway miles from the Multnomah County Courthouse in Portland, Oreg., the Class I price should be reduced 15 cents per hundredweight, plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

Except for Umatilla County, the Oregon portion of the marketing area generally lies between the crest of the Cascades and the Pacific Ocean. Both the population and the milk production are concentrated between the Cascade and Coast Ranges along U.S. Interstate Highway 5. Population centers are spaced along this highway from Portland at the northern border of the State to Grant's Pass and Medford which are located close to the California border in the south. There are very few communities of any size in western Oregon which are not located close to Interstate 5.

The city of Portland and its environs constitute the major population center. Nevertheless, substantial quantities of milk are processed and distributed by plants located along Interstate 5 all the way to the California border. These plants located in the major communities to the south depend generally on milk supplies produced relatively nearby. While local plants compete with each other for these local supplies, the competition with Portland plants at the procurement level lessens in the direction of the California border. Production in southern Oregon is generally in balance with the bottling requirements of the plants located there. Thus, there is no need for location differentials in southern Oregon to cover the cost of moving milk to Portland. Historically, uniform prices have prevailed throughout this area. The absence of location differentials under the Oregon regulation has not resulted in any dislocation of supply.

It is possible that one California plant will become subject to regulation under the order. This plant, located at Weed, Calif., has some distribution in the marketing area around Klamath Falls, Oreg. Currently, the State of California establishes the prices paid by the plant at Weed. These prices are in close alignment to the prices established herein for the Oregon portion of the market. Weed is approximately 350 miles from Portland. The location differential adopted for plants outside Oregon and Lewis and Pacific Counties, Wash., would be approximately 51 cents if effective at Weed. Such a price would give the Weed plant a substantial competitive edge on the Oregon plants with which it competes should it be freed of California regulation. Eliminating any location differential in California will place the Weed plant on virtually the same basis as its Oregon competitors.

In Lewis and Pacific Counties, the location differential should be 20 cents per hundredweight. There are plants in Lewis and Pacific Counties which are regulated under the Puget Sound order. The Class I price applicable under the Puget Sound order at such plants is 10 cents less than the Class I price for such locations proposed herein for the Oregon-Washington order. To maintain proper price relationships and prevent a dislocation of supplies, the difference in Class I prices in these counties under the two orders should not exceed 10 cents per hundredweight.

Except for the plants in Lewis and Pacific Counties there are no Puget Sound regulated plants which would compete to any degree with plants which would be regulated under the Oregon-Washington marketing area.

At a plant outside Lewis and Pacific counties and the territory where no location differentials are provided, a location differential should apply if the plant is located more than 100 miles from the Multnomah County Courthouse in Portland, Oreg. Within the 100-mile radius there is no need for a location differential either to cause milk to be moved to Portland or to prevent a dislocation of supply between the Oregon-Washington market and other nearby markets. Beyond the 100-mile radius the location differential should be 15 cents, plus an additional 1.5 cents for each additional 10 miles or fraction thereof that the plant is distant from the Multnomah County Courthouse in Portland.

These rates are similar to the rates originally proposed by the proponents and included in the notice of hearing, but are somewhat less than those in the revised proposal of proponent cooperatives.

The rate of 1.5 cents per hundredweight for each 10 road miles reasonably reflects the approximate cost of moving milk to city markets. It is the rate generally used in Federal orders and is recognized as an appropriate and representative rate.

Uniform prices (except for excess milk) paid to producers supplying plants at which location differentials apply should be adjusted to reflect the value of milk f.o.b. the plant to which delivered. All producers who share in the Class I proceeds in the pool must be in position to move their milk to the market for Class I use. If a producer chooses to move his milk directly from the farm to a plant with no location differential, he pays the full transportation cost in delivering the milk. Thus, it is appropriate that differences in prices to producers delivering their milk to other plants where location differentials apply reflect a value for the milk at these locations adjusted for the cost of moving milk from these points to the market for Class I use.

No adjustment should be made in the Class III price or in the uniform price of excess milk because of the location of the plant to which the milk is delivered. (It may reasonably be expected that the uniform price for excess milk under this order will approximate the Class III price.) There is little difference in the value of milk for Class III uses associated with the location of the plant receiving the milk. This is because of the relatively low cost per hundredweight of milk involved in transporting manufactured or concentrated products which may be used for Class III purposes.

To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that, for the purpose of calculating such credit, fluid milk products received from pool plants of other handlers shall be assigned to any Class I milk at the plant(s) of the transferee handler that is in excess of the sum of producer milk receipts at plant(s) and receipts from other order plants and unregulated supply plants which are assigned to Class I. Such assignment would be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment of milk will tend to discourage the unnecessary moving of milk between pool plants for other than Class I purposes at the expense of producers and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent any unnecessary interruption in the operations of the order.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the proposed order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure a producer supplying the order market a return based on his pro rata share of the total Class I sales of such market. The price that a producer receives for each month's deliveries will be one based on the overall utilization of all producer milk received at the pool plants of all regulated handlers during such month.

A marketwide pool permits a handler either to maintain some manufacturing operations in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the prices payable to his producers as compared to other producers in the market.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are exclusively Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for Class II items or manufacturing purposes. Under these conditions, a marketwide pool will facilitate the marketing of producer milk. A marketwide pool will make it possible for producer associations to assist in diverting seasonal reserve milk and thus keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist also in apportioning among all producers the lower returns from reserve milk when otherwise this burden would be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the maintenance of an adequate and dependable supply of producer milk.

A witness appearing on behalf of the Oregon Golden Guernsey Association, the Oregon All-Jersey Association, and the Washington State Jersey Cattle Club proposed that the order provide individual-handler pools rather than a marketwide pool, or, in the alternative, a separate pool for "breed" milks sold under a breed label.

As pointed out above, the nature of the Oregon-Washington market and the concentration of the reserve supplies in the plants of a few handlers require the adoption of a marketwide pool. An individual-handler pool would not meet the needs of the market and would tend to further disrupt rather than restore orderly marketing conditions.

There is no basis for treating "breed" milks differently than other milk of producers. It was the contention of the witness that the production of Jersey or Guernsey milk is more costly than the production of other milks, that it has a higher consumer preference (because of its alleged greater solids content), and that it is produced more closely in line with the Class I demands of consumers than is market milk generally. Thus, he felt that a separate pool for breed milk would return to its producers a higher price than the market average.

None of the allegations as to quality and consumer preference are supported by the record. If, in fact, certain consumers prefer Golden Guernsey or All Jersey milk to the point where they are willing to pay a higher price than for other milk, there is nothing in the order which would prevent producers of such milk from receiving a premium over the order price for their milk. No premiums are paid in the market at this time for breed milk and the retail price of such milk to consumers is the same as the price for regular milk.

Moreover, the establishment of separate pools for breed milk would place the producers remaining in the marketwide pool at a disadvantage. A handler of special breed milk could shift the burden of his surplus to the marketwide pool by dropping individual producers when production exceeds sales of the special breed milk. These producers could enter a plant in the marketwide pool and share in its Class I sales. When milk was needed again at the plant handling special breed milk, the producers could return to the latter plant. Such practice would result in the marketwide pooling of the plant surplus without enabling other producers in the pool to share in any Class I returns from the sale of the special breed milk.

The proposals for individual-handler pools and separate pooling for "breed" milks are denied.

Base and excess plan. A "base and excess" plan of distributing producer returns should be incorporated in the order and producers paid uniform base and excess prices in each month. Base and excess plans have been widely used in the market for a number of years.

Most of the producers residing in the State of Oregon, and some producers residing outside the State of Oregon, have

been paid for their milk in accordance with the Oregon base or "quota" plan operated by the State of Oregon Department of Agriculture. Some other producers have been paid in accordance with base and excess plans operated by the respective handlers to whom they deliver their milk.

The original proposal of the proponent cooperative associations did not provide for a base and excess plan of payment to producers who were not paid in accordance with the terms of the Oregon plan. It was their proposal that for producers residing in Oregon and delivering their milk to Oregon plants, the monies otherwise due them for their milk would be paid them in accordance with the terms of the Oregon plan unless they, or the cooperative association of which they are members, specifically requested otherwise.

With respect to producers residing outside Oregon whose milk is delivered to Oregon plants or to plants operated by cooperative associations participating in the Oregon plan, it was proposed that they likewise be afforded the option of participating in the Oregon plan if they, or the cooperative association of which they are members, so notify the market administrator in writing of intention to participate. Producers not participating in the Oregon plan would be paid a straight blend price for all milk.

At the hearing, however, most of the proponent cooperatives proposed and supported a base and excess plan as a means of distributing returns to those producers not participating in the Oregon plan. They testified that, in view of the long history of bases in the market, producers already had adopted their individual production patterns to the needs of the market for Class I milk. Abandonment of the base and excess plan, they stated, might result in a deterioration of the overall seasonal production pattern for the market.

At the hearing, some of the proponents suggested further that participation in the Oregon plan be made mandatory for all producers residing in Oregon whose milk is received at Oregon plants. This position was supported by an official of the Milk Audit and Stabilization Division of the Oregon Department of Agriculture who appeared as a witness to explain the Oregon plan. It was his position that if participation in the plan were left optional, increasing numbers of producers would elect to be paid at the uniform price, or the base and excess prices otherwise payable, rather than to continue to participate in the Oregon plan.

Bases under the Oregon plan are directly related to Class I sales of handlers subject to the Oregon Milk Audit and Stabilization Law. Thus, a producer can not increase his base except as Class I sales of such handlers increase. However, his base could be reduced if Class I sales of such handlers decline.

Under a base-excess plan, bases are determined from deliveries during a representative period without adjustment to the Class I sales level. They are also subject to annual revision. Such plan, as adopted herein, is explained further below.

Except for the "Class I base plans" (not at issue here) expressly provided for by the amendments to the Agricultural Marketing Agreement Act by Public Law 89-321 (Food and Agriculture Act of 1965), the Agricultural Marketing Agreement Act expressly provides for uniform prices to all producers subject to certain adjustments including one "equitably, to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their marketings of milk during a representative period of time."

Thus, the Act precludes the Secretary from establishing different uniform prices to producers depending on whether they reside in or ship milk to plants in Oregon. Likewise, he is precluded from establishing a quota plan similar to the Oregon plan. This plan is similar in some respects to both a Class I base plan and a base and excess plan. Bases are related to both handlers' Class I sales and the producer's marketings as under a Class I base plan. Bases are subject to revision annually as under a base and excess plan and provision is made for the assignment of bases to new producers under certain conditions.

The Act, however, does not prohibit the Secretary from permitting producers, who desire to do so, to assign to the State of Oregon the returns otherwise due them for their milk in order that the State may redistribute such returns in accordance with the terms of the Oregon plan. Accordingly, it is concluded that those producers who desire to continue to have the returns for their milk distributed to them in accordance with the terms of the Oregon plan may continue to do so. For all other producers, returns would be distributed in accordance with the terms of the base and excess plan described below.

The primary purpose of the base-excess plan adopted is to encourage producers to maintain even production throughout the year. Without some such incentive to producers, production normally tends to fluctuate more during the year than handlers' Class I requirements. The various base plans which have been operated in the market have resulted in production being closely correlated with the fluid milk needs of the market. As under these plans, the base-excess plan proposed herein would tend to assure that excess production on the part of some producers would not affect adversely the returns to all other producers on the market.

The base and excess plan herein would establish a daily base for each producer by dividing his total deliveries to pool plants in the preceding August through December period by the number of days in the 5 months. The base would be computed in this manner only for those producers who delivered to pool plants on at least 120 days in the 5 months. For the purpose of computing the total effective base milk of a producer, the number of days of milk delivery would be the number of days of production represented by his deliveries. A single delivery by a producer on an every-other-day delivery basis, for example, would be considered as 2 days' production for the purpose of computing base milk.

Producers would establish new bases each year. They would be computed by the market administrator to be effective from February through January of the following year. Before February of each year, the market administrator would notify each producer, the handler receiving his milk, and the cooperative association of which he is a member, of the producer's base.

"Base milk" would mean producer milk received during the month which is not in excess of the producer's base milk multiplied by the number of days' production received at pool plants during the month. "Excess milk" would mean producer milk received during the month which is in excess of base milk for the same month.

Class I disposition in the market would be assigned to base milk first. If the aggregate Class I disposition were more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess milk price increased accordingly.

As provided in this decision, location adjustments would be applied to the price paid producers for base milk. Since excess milk will represent principally producer milk classified in Class III to which no location adjustment is applicable, the producer price for excess milk should not be subject to the location adjustment provisions of the order. The producer butterfat differential applicable to the uniform price should be used to adjust the uniform prices for base milk and excess milk.

A producer from whom no milk was received at pool plants in the August–December period, or who made such deliveries on less than 120 days during such months, would be assigned a base equal to a percentage of his daily average deliveries of producer milk for each month. In addition, a producer who had been assigned a base on deliveries to a pool plant for more than 120 days during the preceding August–December period should be permitted to relinquish his base and receive a new base in the same manner as a new producer, or a person who shipped to a pool plant on less than 120 days during the August–December period.

The base of a new producer would be computed by multiplying his deliveries to a pool plant during the month by the following percentages:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

These percentages are identical to those contained in the base and excess plan for the Puget Sound market prior to the adoption of the Class I base plan for that market.

These percentages are adjusted seasonally to reflect the supply situation

in the market. The lower rates in the flush production months should not encourage new producers to come on the market at a time when their production is not needed for Class I use. Neither are the stated percentages low enough to discourage entry into the market of a producer who intends to become permanently associated with the market.

It is likewise appropriate that a producer who has earned a base during the August–December period be permitted to relinquish that base and receive an assigned base in the same way as a new producer.

If a plant that was a nonpool plant in the preceding August–December period became a pool plant, the dairy farmers supplying that plant should be assigned bases in the same manner as if they had been producers during such period. Their bases would be calculated from their deliveries to that plant in the preceding August–December base-making period, such information on deliveries to be made available to the market administrator by the plant operator. Such a provision is commonly provided in Federal order base plans designed to achieve a more regular seasonal delivery of milk by each producer.

Likewise, a producer-handler who ceases to operate as a producer-handler and becomes a producer shipping milk to another handler should have a base computed on the basis of his operation during the preceding August–December period.

The order should provide appropriate rules for the handling of base transfers and for other conditions that arise in connection with the administration of the base and excess plan.

The base earned by a producer by delivering to pool plants on not less than 120 days in the preceding August–December period should be transferable under certain circumstances.

The base may be transferred to another producer only by a producer who earned the base on his deliveries during the August–December period. The transferring producer must sell, lease or otherwise convey his herd to the producer acquiring the base. The transferred base shall apply only to deliveries of milk by the transferee producer from the same farm. Exceptions to the rule would apply only (1) with respect to a transfer to a member of the immediate family, in which case a base received by transfer could be transferred to a member of the immediate family, or (2) in the case of a baseholder's death when the base might be transferred to a person not a member of the immediate family.

The first base-making period under the order is expected to be August 1969 through December 1970. Complete data to compute bases will be available at the end of that period. It is appropriate, therefore, that the application of the base and excess pricing provisions of the order be delayed until February 1, 1970. For months prior to that date a market-wide uniform price for all milk should be computed.

Some proponents of the base plan urged that the base-making period be the 4 lowest months of production of the individual producer rather than the months of generally lowest production for the total market. They felt that this would tend to reduce the increase in bases from year to year which might occur when the producer is aware of the base-making period.

As stated previously, the purpose of the base plan is to adjust the production of all producers seasonally to best meet the requirements of the total market. To accomplish this most effectively, bases should be computed on the production during those months when total supplies of the market are least relative to sales, rather than on the performance of the individual producer throughout the year.

Payments for milk. All handlers should be required to make payments to the market administrator of the total value of their milk according to its classification. This should simplify payments by handlers by virtue of the participation of some of their producers in the Oregon base plan.

The market administrator then would pay producers who did not participate in the Oregon plan at the appropriate blend, or base and excess, prices. In the case of producers who were members of cooperative associations not participating in the Oregon plan but which had authority to collect payments from their members and requested to do so, the market administrator would pay the individual cooperative association an amount equal to the total payments otherwise due its member producers.

With respect to producers participating in the Oregon plan, thus authorizing the State to collect for them, the market administrator would pay to the proper State official the total amount otherwise due to the participating producers. The State, in turn, would settle with participating producers and cooperative associations in accordance with the terms of the Oregon plan.

Such a method of payment will relieve handlers participating in the Oregon plan of the necessity of reconciling the required minimum payments to producers under the two payment plans. Thus, the entire producer payment procedure would be more complicated and burdensome than under the plan adopted.

Without such an arrangement, handlers would be required to make payments to the producer-settlement fund under the Federal order, if their utilization value exceeded the total money due producers as computed at the base and excess prices, or receive money from the producer-settlement fund if their utilization value was less than the value of their producer milk. They then would incur a further obligation to "equalize" further under the Oregon plan if the monies due producers under the Oregon plan varied from the amount that would be due such producers at the uniform prices computed under the order.

Provision should be made for a cooperative to receive payment for producers' milk which it causes to be delivered to a pool plant. Receiving payment for the milk of members and the blending of proceeds from the sale of such milk will tend to promote orderly marketing and will assist the several cooperatives in discharging their responsibilities to members and to the market.

The Act provides for the payment to cooperatives for milk delivered by them to handlers and permits the blending of all sales from members' milk. The contracts with their members authorize the principal cooperatives in the market to collect for producer deliveries. Therefore, the market administrator, or the appropriate official of the State of Oregon in the case of producers participating in the Oregon plan, if requested by an authorized cooperative, would pay it an amount equal to the sum of the individual payments otherwise payable to the producers for whom it markets. Such payments should be made to cooperatives on or before the day prior to the date payments are due individual producers. This will enable the cooperatives to pay their members by the same time other producers receive their payments.

Producer-settlement fund. The market administrator should maintain a producer-settlement fund in which are deposited all funds paid by handlers and out of which are paid all monies due producers for their milk. Provision for the establishment and maintenance of a producer-settlement fund is common to Federal orders with marketwide pools.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside at the end of each month. This is necessary to provide for such contingencies as the failure of a handler to make payment of his monthly billing to the fund, or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than four nor more than five cents per hundredweight of producer milk in the pool for the month.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby be distributed to all producers on the market.

Interest payments on overdue accounts. Provision is made for the payment of interest at a monthly rate of one-half of 1 percent on amounts due the market administrator under each of the funds established by the order.

Prompt payment of amounts due the several funds is essential to the operation of the order provisions. Handlers who do not make prompt payment of their obligations, in effect, are borrowing for their own business purposes, money which is properly a part of the funds in the custody of the market administrator. Were the handlers to borrow money from the banks, they would be required to pay interest on such

money. They, likewise, should be required to pay interest on money which, in effect, has been borrowed from the funds in the custody of the market administrator.

The rate prescribed herein, one-half of 1 percent per month (6 percent on an annual basis) compounded monthly, is reasonable.

Marketing services. Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. Any cooperative association, if approved for such activity by the Secretary, may perform such services for its member-producers and if it is doing so, the service will not be furnished to such producers by the market administrator.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to the other provisions of the order. There are no payments to other persons to verify on such milk and, therefore, no need to provide the same marketing services as are provided other producers.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers, on a uniform basis, that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producer deliveries reported by the handler are accurate.

An additional phase of the marketing service program is to furnish all producers with market information. Efficiency in the production, utilization, and marketing of milk will be promoted by providing for the dissemination of timely market information on a market-wide basis to producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders such marketing services. From comparison as to the number of producers involved and the expected volume of milk with other markets, a 6-cent rate is reasonable and should provide the funds necessary to conduct the program. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Expense of administration. Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers and on other source milk allocated to Class I milk.

The proposed order provides that a cooperative shall be the handler for its members' milk which it delivers in tank trucks from the farms to pool plants of other handlers. The cooperative is the handler for such milk basically for the purpose of making payments to its individual producers. The milk, however, would be considered as producer milk at the plant of the receiving handler for all accounting purposes, and consequently would be treated the same as any other direct receipts from producers. The market administrator must verify by audit the receipts and utilization at pool plants, whether the plant operator buys his milk directly from producers or through a cooperative as a bulk tank handler. No plant of the cooperative is involved in this particular circumstance. Such cooperative's function as a handler is primarily one of recordkeeping. It is appropriate, therefore, that the pool plant operator receiving such milk pay the administrative assessment on it on the same basis that he pays such assessment for all other producer milk received at his plant. The cooperative, however, would be liable for the administrative assessment on any amount by which the farm weights of the producer milk exceeded the aggregate weight on which the plant operator purchases the milk from the cooperative.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route disposition in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to such nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales would reasonably constitute his pro rata share of the administrative expense.

In the case of unregulated milk which enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

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 to reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order 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 proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable 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

The following order regulating the handling of milk in the Oregon-Washington marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

DEFINITIONS

§ 1124.1 Act.

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

§ 1124.2 Department.

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

§ 1124.3 Secretary.

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

§ 1124.4 Person.

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

§ 1124.5 Cooperative association.

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

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

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1124.6 Oregon-Washington marketing area.

"Oregon-Washington marketing area" hereinafter called the "marketing area", means all territories within the perimetric boundaries of the counties listed below, including all territory as is now occupied and as may be occupied in the future by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments. Where such an establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

OREGON COUNTIES

Benton.	Lane.
Clackamas.	Lincoln.
Clatsop.	Linn.
Columbia.	Marion.
Coos.	Morrow.
Deschutes.	Multnomah.
Douglas.	Polk.
Gilliam.	Sherman.
Hood River.	Tillamook.
Jackson.	Umatilla.
Jefferson.	Wasco.
Josephine.	Washington.
Klamath.	Yamhill.

WASHINGTON COUNTIES

Benton.	Pacific.[1]
Clark.	Skamania.
Cowlitz.	Wahkiakum.
Franklin.	Walla Walla.
Klickitat.	Yakima.
Lewis (the town of Vader only).	

§ 1124.7 Handler.

"Handler" means:

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

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

(c) A cooperative association with respect to milk of its member producers which is diverted from a pool distributing plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1124.61.

§ 1124.8 Plants.

(a) "Distributing plant" means a plant:

(1) That is approved by a duly constituted health authority for the processing or packaging of Grade A milk and which has route disposition in the marketing area during the month; or

(2) That processes or packages filled milk and has route disposition of filled milk in the marketing area during the month;

(b) "Supply plant" means a plant from which filled milk or a fluid milk product which has been approved by a duly constituted health authority for fluid consumption is shipped during the month to a distributing plant.

§ 1124.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempt pursuant to § 1124.60 or § 1124.61: *Provided*, That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant which during the month:

(1) Has route disposition except filled milk in the marketing area of 15 percent or more of its total receipts of Grade A milk except packaged fluid milk products from other plants qualified under this paragraph, filled milk and receipts of diverted milk from other pool plants and from other order plants;

(2) Has total route disposition, except as filled milk, both inside and outside the marketing area, of 30 percent or more of such receipts: *Provided*, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested; and

(b) Any supply plant from which 30 percent of its dairy farm supply of Grade A milk is moved, except as filled milk, during the month to a plant(s) qualified under paragraph (a) of this section. Any plant which has qualified under this paragraph in each of the months of August through February (or would have so qualified had the order been in effect) shall qualify under this paragraph in each of the following months of March through July unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through July unless it fulfills the shipping requirements of this paragraph for such month.

§ 1124.10 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The term includes, but is not limited to the following categories of plants:

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

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

(c) "Partially regulated distributing plant" means a nonpool plant that is not an exempt plant, an other order plant, or a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed in the marketing area on routes during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant and from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1124.8.

(e) "Exempt plant" means a plant described in § 1124.60.

[1] All territory south of T. 11 N. and Long Island and the North Beach Peninsula only.

§ 1124.11 Producer.

"Producer" means any person (other than a producer-handler as defined in any Federal order, including this order) who produces milk approved by a duly constituted health authority for fluid consumption which milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in paragraphs (a) and (b) of this section and subject to paragraphs (c), (d), (e), and (f). The term shall not include such person with respect to milk received at a pool plant from an other order plant by diversion if both buyer and seller have requested Class III milk classification in the reports of receipts and utilization filed with the respective market administrators:

(a) During March through July a cooperative association may divert for its account to a nonpool plant without limit the milk of any producer. During the months of August through February such cooperative association may divert on other days the milk of any producer from whom at least three deliveries are received at a pool distributing plant during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at pool distributing plants. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the 1st day of the month such agreement is effective. This request shall specify the basis for assigning any overdiverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool distributing plant may divert during any month of March through July for his account to a nonpool plant, without limit, the milk of any producer other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section during the month. During the months of August through February such handler may divert on other days the milk of any producer from whom at least three deliveries are received during the month at his pool distributing plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at his pool distributing plant(s).

(c) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (a) and (b) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted and such overdiversions shall not be considered producer milk. If the handler fails to make such designation, only the milk of the dairy farmers which is physically received at a pool plant(s) by the diverting handler shall be producer milk for such month.

(d) For the purposes of the requirements of § 1124.9, milk diverted for the account of the operator of a pool distributing plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted.

(e) For the purposes of location adjustments pursuant to §§ 1124.52 and 1124.83, any milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(f) Milk moved from producers' farms to a nonpool plant may be diverted producer milk only if it is not fully subject to the pricing and pooling provisions of the other order and if both the diverting handler and the operator of the other order plant request Class III (or Class II) classification.

§ 1124.12 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area during the month, and who receives no skim milk (including nonfat dry milk or condensed skim milk or skim milk recombined from nonfat dry milk or condensed skim milk) or butterfat from any source for use in fluid milk products during the month: *Except* that such person may purchase from other pool plants packaged fluid milk products, other than whole milk, in an amount not in excess of an average of 100 pounds per day during the month. Such person may also operate as a vendor of fluid milk products processed and packaged by a pool distributing plant in an amount not in excess of the quantity of packaged fluid milk products disposed of by the producer-handler to such pool distributing plant.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1124.13 Producer milk.

"Producer milk" means the skim milk and butterfat handled by a pool plant operator or a cooperative association handler pursuant to § 1124.7 (c) and (d) as follows:

(a) Producer milk of a handler operating a pool plant is skim milk and butterfat in milk:

(1) Received at such pool plant directly from producers and cooperative association handlers pursuant to § 1124.7 (d), except receipts of diverted producer milk of another pool plant operator or diverted milk from an other order plant if diversion is claimed by the diverting handler and if both handlers have requested Class III classification of such diverted milk in their reports filed pursuant to § 1124.30;

(2) Diverted by the operator of such pool plant for his account to a nonpool plant subject to the limits prescribed in § 1124.11;

(3) Diverted by the operator of such pool plant to another pool plant if he claims such diversion and if operators of both plants have requested Class III classification of such diverted milk in their report filed pursuant to § 1124.30;

(b) Producer milk of a cooperative association pursuant to § 1124.7(c) is skim milk and butterfat in milk received by such cooperative association from producers' farms and diverted for its account to a nonpool plant, subject to the limits prescribed in § 1124.11.

(c) Producer milk of a cooperative association handler pursuant to § 1124.7(d) is skim milk and butterfat in milk received by such cooperative association from producers' farms in excess of the quantity delivered to pool plants. Such milk shall be priced at the location of the pool plant to which most of the milk in the tank truck was delivered during the month.

§ 1124.14 Other source milk.

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

(a) Receipts during the month in the form of fluid milk products from any source except producer milk and fluid milk products received from pool plants; and

(b) Products (except Class II milk products received from pool plants) other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month, and any disappearance of nonfluid milk products not otherwise accounted for pursuant to § 1124.33.

§ 1124.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or with added nonfat milk solids) including "dietary milk products," reconstituted milk or skim milk, filled milk, concentrated milk not in hermetically sealed all-metal containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: aerated cream products, frozen cream, sterilized cream (including "half and half" and similar mixtures of cream and milk or skim milk) aseptically packaged, sour cream mixtures to which other ingredients are added (commonly referred to as "dips"), eggnog, yogurt, ice cream, and frozen dessert mixes, evaporated or condensed milk, and sterilized fluid milk products in hermetically sealed all-metal containers.

§ 1124.16 Route disposition.

"Route disposition" means delivery to retail or wholesale outlets (including a

delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery to a pool plant or a nonpool plant: *Provided*, That packaged fluid milk products that are transferred to a pool distributing plant from another distributing plant, and which are classified as Class I under § 1124.44(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1124.9(a) and the transferor plant shall be assigned in-area sales to the extent of such transfer but not in excess of the in-area sales of the transferee.

§ 1124.17 Oregon Base Plan.

"Oregon Base Plan" means the applicable provisions of Oregon Revised Statutes, Chapter 583.510 (1) and (2); 583.512; 583.515; 583.516; 583.525(2); 583.530(1)(c), and related provisions of Oregon Administrative Rules, Chapter 603-65-035; 65-040; 65-045; 65-050; 65-055; 65-060; 65-070; 65-075; 65-080; and 65-085.

§ 1124.18 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains not more than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1124.20 Designation.

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

§ 1124.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1124.22 Duties.

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

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

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

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

(d) Pay out of the funds received by § 1124.87, the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1124.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office, and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1124.30 and 1124.31; or (2) payments pursuant to §§ 1124.80 through 1124.87;

(i) Publicly announce by posting in a conspicuous place in his office, and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the 5th day of each month, the Class I milk price and Class I butterfat differential for the month, computed pursuant to §§ 1124.51(a) and 1124.53(a), respectively;

(2) On or before the 5th day of each month, the Class II and Class III milk prices, and the Class II and Class III butterfat differentials, for the preceding month, computed pursuant to §§ 1124.51 (b) and (c), and 1124.53 (b) and (c), respectively; and

(3) On or before the 14th day of each month, the uniform prices for all producer milk computed pursuant to § 1124.71, and the butterfat differential computed pursuant to § 1124.84, for the preceding month;

(j) On or before the 14th day after the end of each month:

(1) Notify each handler of his net pool obligation computed pursuant to §§ 1124.62 and 1124.70 and of any adjustments pursuant to § 1124.85; and

(2) Report to each cooperative association which so requests the amount and class utilization of producer milk delivered from members of such association to each proprietary handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this order, and which do not reveal confidential information;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.46(a)(10), and the corresponding step of § 1124.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month, of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimates shall be based upon the most current available data and shall be final for such purposes;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1124.46, pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

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

REPORTS, RECORDS, AND FACILITIES

§ 1124.30 Reports of receipts and utilization.

On or before the ninth day after the end of each month, the following handlers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s) shall report for each such plant:

(1) The pounds of producer milk and the butterfat contained therein:

(i) Received directly from producers;

(ii) Received from a cooperative association handler pursuant to § 1124.7(d);

(iii) Diverted to a nonpool plant within the limits prescribed in § 1124.11; and

(iv) Diverted to a pool plant within the limits prescribed in § 1124.13(a)(3).

(2) The quantities of skim milk and butterfat contained in receipts from other pool plants;

(i) In the form of fluid milk products;
(ii) In the form of Class II milk products; and
(iii) As diverted from another pool plant.

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

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand, separately in bulk and in packages, at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement showing separately the in-area and outside area route disposition of filled milk and other Class I milk;

(6) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;
(ii) The name of the individual dairy farmer whose milk was so diverted;
(iii) The pounds of skim milk and butterfat contained in his milk so diverted;
(iv) The number of days his milk was received at a pool plant; and

(7) Such other information with respect to such receipts and utilization as the market administrator may prescribe; and

(b) Each cooperative association shall report separately with respect to milk for which it is a handler pursuant to § 1124.7 (c) and (d) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants;

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler; and

(4) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;
(ii) The name of the individual dairy farmer so diverted;
(iii) The pounds of skim milk and butterfat contained in his milk so diverted; and
(iv) The number of days his milk was received at a pool plant;

(c) Each handler operating a partially regulated distributing plant shall report the information required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat in Class I milk disposed of in the marketing area on routes and the quantity of reconstituted skim milk in such disposition.

§ 1124.31 Payroll reports.

On or before the 20th day of each month, the following handlers shall report to the market administrator, as follows:

(a) Each handler who operates a pool plant(s) shall submit to the market administrator his individual account for milk received from producers at each of his pool plants, including milk diverted as producer milk for his account from such plant during the preceding month which shall show:

(1) The name and the days of delivery of each producer from whom milk was received during the month with the address of any producer for whom such information was not furnished previously other than one who is a member of a cooperative association which is a handler pursuant to § 1124.7(d);

(2) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer reported in subparagraph (1) of this paragraph, identifying separately those producers for which a cooperative association is authorized to collect payments pursuant to § 1124.80(b); and

(3) The nature and amount of any deductions or charges involved in such payments.

(b) Each handler who operates a partially regulated distributing plant and elects to make payments pursuant to § 1124.62(a), shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; and

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1124.7 (c) and (d) the name and the number of days of delivery, with the address of any producers not previously reported, the total pounds of milk and the average butterfat content thereof which was received from each producer.

§ 1124.32 Other reports.

Each producer-handler, each handler operating an exempt plant pursuant to § 1124.60 (a) and (b) or an other order plant pursuant to § 1124.61, and each handler making payments pursuant to § 1124.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1124.33 Records and facilities.

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

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

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

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

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

§ 1124.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records until further written notification from the market administrator. In either case, the market administrator shall give further notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

Classification

§ 1124.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1124.30 shall be classified by the market administrator pursuant to the provisions of §§ 1124.41 through 1124.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk solids contained in such product, plus all the water originally associated with such solids.

§ 1124.41 Classes of utilization.

Subject to the conditions set forth in §§ 1124.42 through 1124.46, the classes of utilization shall be as follows:

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

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

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not accounted for as Class II milk or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese, frozen cream, plastic cream, ice cream, ice cream mix, frozen desserts, frozen dessert mixes, sour cream mixes to which other ingredients have been added (commonly referred to as "dips"), sterilized cream (including "half and half" and similar mixtures of cream and milk or skim milk) aseptically packaged eggnog, yogurt, and condensed milk or condensed skim milk (either plain or sweetened) utilized for any purpose other than those specified in paragraph (c)(1) of this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce aerated cream products, butter, butteroil, anhydrous butterfat, condensed milk or condensed

skim milk (either plain or flavored) used to produce another Class III product in a pool plant or in a nonpool plant located within the marketing area, condensed buttermilk, cheese, except cottage cheese, sterilized products in hermetically sealed all-metal containers, nonfat dry milk, dried whole milk, dried buttermilk, dried whey, blends of dried milk products and products which contain 6 percent or more nonmilk fat (or oil);

(2) Disposed of to commercial manufacturers of bakery products, candy, meat products, animal feed, prepared foods in hermetically sealed metal containers, and prepared foods in dried or nonfluid form;

(3) Dumped after prior notification to and opportunity for verification by the market administrator;

(4) Used to increase the nonfat solids content of fluid milk products in excess of the pounds of milk so classified pursuant to paragraph (a)(1) of this section;

(5) In inventory of bulk fluid milk products on hand at the end of the month; and

(6) In shrinkage at each pool plant allocated pursuant to § 1124.42(b)(1) not to exceed the following:

(i) Two percent of receipts directly from producers and receipts of diverted producer milk from another pool plant if the diversion is accounted for on the basis of farm weights; plus

(ii) One and one-half percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1124.7(d), except that if the handler operating the pool plant files with the market administrator notice that he is receiving such milk on the basis of farm weights (determined from farm bulk tank calibrations and samples), the applicable percentage shall be two percent; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from other pool plants including diverted milk unless the rate of 2 percent is applicable under subdivision (i) of this subparagraph; 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 II or 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 disposition in bulk to other milk plants either by transfers or diversions; and

(7) In shrinkage allocated pursuant to § 1124.42(b)(2); and

(8) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1124.7 (c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts exclusive of those for which farm weights and tests are used as the basis of receipt at the plant to which delivered.

§ 1124.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

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

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between:

(1) A quantity equal to 50 times the maximum that may be computed pursuant to § 1124.41(c)(6); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of those specified in § 1124.41(c)(5).

§ 1124.43 Responsibility of handlers and reclassification of milk.

(a) Except as provided in paragraphs (b) and (c) of this section, all skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1124.41 through 1124.46, §§ 1124.50 through 1124.54, and §§ 1124.70 through 1124.71, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1124.7(d), shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1124.70;

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1124.7(d), the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I milk and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler pursuant to § 1124.7 (d) shall be responsible for proving that such skim milk and butterfat shall be classified other than as Class I milk; and

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

§ 1124.44 Transfers.

Skim milk and butterfat disposed of in the form of a fluid milk product (or a Class II milk product moved between pool plants) by a handler, including a handler pursuant to § 1124.7(c), shall be classified as follows:

(a) At the utilization indicated by the operator of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1124.46(a)(5), and the corresponding step of § 1124.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I milk utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1124.46(a) (9) or (10) and the corresponding steps of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants.

(b) As Class I milk, if transferred or diverted in bulk to a nonpool plant which is not an other order plant, a producer-handler plant or an exempt plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph, except that cream so transferred may be classified as Class III if the handler claims classification of such cream in Class III in his report pursuant to § 1124.30, the handler tags the container of such cream as for manufacturing purposes, and the handler gives the market administrator sufficient notice to allow him to verify the shipment:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1124.30 for the month within which such transaction occurred;

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

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

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

(ii) Any Class I milk utilization disposed of in the marketing area of another order on routes issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by

such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

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

(iv) To the extent that Class I milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent of such uses at the plant and then as Class III milk; and

(v) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification, and allocation shall apply;

(c) If transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

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

(2) If transferred or diverted in bulk form, classification shall be in Class I milk, if allocated as a fluid milk product under the other order to Class I milk; in Class II milk, if allocated to Class II milk under an order which provides three classes; or in Class III milk, if allocated to Class III milk under the other order or if allocated to Class II milk under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

(5) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1124.41.

(d) As Class I, if transferred as a fluid milk product to a producer-handler or to an exempt plant under § 1124.60 (a) or (b).

§ 1124.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1124.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1124.7 (c) and (d) and was not received at a pool plant. Producer milk for which a cooperative association is the responsible handler pursuant to § 1124.7 (c) or (d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1124.46, and computation of obligation pursuant to § 1124.70.

§ 1124.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1124.45, the market administrator shall determine each month the classification of producer milk for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk classified as Class III milk pursuant to § 1124.41(c)(5);

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

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from a producer-handler as follows:

(i) From Class III milk the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk the remainder of such receipts but not in excess of 98 percent of the packaged fluid milk products disposed of to such producer-handler by the handler;

(4) Except for the first month this order is effective, or the first month in which a plant becomes a pool plant, subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(5) Subtract in the order specified below the pounds of skim milk in each of the following:

(i) From Class II, other source milk received in the form of a Class II product;

(ii) From the remaining pounds of skim milk in each class in series beginning with Class III:

(a) Other source milk in a form other than that of a fluid milk product or a Class II product;

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

(c) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order in excess of the amount subtracted pursuant to subparagraph (3) of this paragraph;

(d) Receipts of fluid milk products from an exempt plant; and

(e) Receipts of reconstituted skim milk in filled milk from unregulated supply plants.

(6) Subtract, in sequence beginning with Class III milk in the order specified below, from the pounds of skim milk remaining in Class III milk and Class II milk:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class III milk utilization, but not in excess of the pounds of skim milk remaining in Class III milk and Class II milk;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subdivision (5)(ii)(e) 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 milk 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;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III milk (and Class II milk), if Class III milk 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 bulk fluid milk products (and, for the first month the order is effective or the first month in which a plant becomes a pool plant, the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(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 the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subdivision (5)(ii)(e) or subparagraph (6)(i) or (ii) of this paragraph.

(10) Subtract, beginning with Class III milk, from the pounds of skim milk remaining in each class 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, that were not subtracted pursuant to subparagraph (6)(iii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk and Class II milk combined:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1124.22(1); or

(b) The pounds of skim milk remaining in each class at a pool plant(s) of the handler;

(ii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers by transfer or diversion according to the classification assigned pursuant to § 1124.44(a); and

(12) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, from pool plants operated by cooperative associations, and from cooperative associations pursuant to § 1124.7(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III milk. 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.

Minimum Prices

§ 1124.50 Basic Formula price.

The basic formula price shall be the average price per huundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the butter price. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

§ 1124.51 Class prices.

Subject to the provisions of §§ 1124.52 and 1124.53, the class prices per hundredweight for the month shall be computed as follows:

(a) *Class I milk.* For the first 18 months from the effective date of this section, the Class I price shall be the basic formula price for the preceding month plus $1.75, plus an additional 20 cents;

(b) *Class II milk.* The Class II price shall be the Class III price for the month plus 25 cents; and

(c) *Class III milk.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk creamery butter at Chicago as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

§ 1124.52 Location adjustment to handlers.

(a) For producer milk and other source milk (for which a location adjustment is applicable) at a plant not located in the Oregon portion of the marketing area (except Umatilla County), or in the State of California which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the Class I price computed pursuant to § 1124.51 (a) shall be reduced by the following amounts:

(1) For any plant located in Lewis and Pacific Counties, Wash., 20 cents;

(2) For any plant (other than as specified in subparagraph (1) of this paragraph) which is more than 100 miles from the Multnomah County Courthouse in Portland, Oreg., by shortest hard-surfaced highway distance as determined by the market administrator, such price shall be reduced by 15 cents, plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 100 miles; and

(b) For purposes of calculating such adjustment, fluid milk products received at a pool distributing plant from another pool plant shall be assigned to Class I milk at the transferee plant in that amount which is in excess of the sum of receipts from producers and cooperative associations pursuant to § 1124.7(d) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1124.53 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1124.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply by 0.12 the butter price described in subparagraph (c)(1) of § 1124.51 for the preceding month;

(b) *Class II milk.* Multiply by 0.115 the butter price described in subparagraph (c)(1) of § 1124.51; and

(c) *Class III milk.* Multiply by 0.115 the butter price described in subparagraph (c)(1) of § 1124.51.

§ 1124.54 Use of equivalent prices.

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

Application for Provisions

§ 1124.60 Exemptions.

Sections 1124.40 through 1124.46, 1124.50 through 1124.54, 1124.70 through 1124.72, and 1124.80 through 1124.87 shall not apply to a producer-handler or an exempt plant described in paragraph (a) or (b) of this section:

(a) A distributing plant operated by a Government agency; and

(b) Any distributing plant from which less than an average of 300 pounds of Class I milk per day is disposed of in the marketing area on routes during the month.

§ 1124.61 Other order plants.

The provisions of this order shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may request and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1124.9(a) which also meets the pool plant requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk was disposed of during the month in such other Federal order marketing area on routes than was disposed of in this marketing area on routes, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I milk disposition on routes is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1124.9(a) which also meets the pool plant requirements of another Federal order on the basis of route distribution in such other marketing area, and from which the Secretary determines a greater quantity of Class I milk is disposed of during the month in this marketing area on routes than is so disposed of in such other marketing area, but which plant maintains pooling status for the month under such other Federal order;

(c) A plant meeting the requirements of § 1124.9(b) which also meets the pool

plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order.

§ 1124.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1124.30 and 1124.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section.

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1124.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III (or Class II) milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk should be valued at the Class III price. There shall be included in the obligation so computed a charge in the amount specified in § 1124.70(e) and a credit in the amount specified in § 1124.81(b) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph;

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1124.30 and 1124.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1124.8(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

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

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

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

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

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), subtract its value at the uniform price applicable at such location (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1124.68 Payments to producers under the Oregon base plan.

Notification shall be given by the market administrator to producers and cooperative associations of intent to make payment of producer returns attributable to producers who participate in the Oregon Base Plan in accordance with § 1124.82(c)(2). Producers who participate in the Oregon Base Plan shall be identified as follows:

(a) Any producer whose farm is located in Oregon and whose milk is received at a plant located in Oregon unless such producer notifies the market administrator in writing before the first day of any month for which he first elects to receive payment at the applicable uniform price(s);

(b) Any producer member of any cooperative association operating in Oregon unless such cooperative association notifies the market administrator in writing before the first day of any month for which it first elects to receive payment for its members' milk at the applicable uniform price(s); and

(c) Any producer whose farm is located outside Oregon but whose milk is received at a plant located in Oregon if such producer notifies the market administrator in writing before the first day of any month for which he first elects to receive payment pursuant to such base plan rather than at the applicable uniform price(s).

DETERMINATION OF UNIFORM PRICES

§ 1124.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler pursuant to § 1124.7 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1124.46(c), by the applicable class prices (adjusted pursuant to §§ 1124.52 and 1124.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1124.46(a)(12) and the corresponding step of § 1124.46(b), by the applicable class prices;

(c) Add the amounts computed under subparagraphs (1), (2), and (3) of this paragraph;

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(7) and the corresponding step of § 1124.46(b), for the current month;

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1124.46(a)(7) and the corresponding step of § 1124.46(b), for the current month, or the hundredweight of skim milk and butterfat remaining in Class III milk after the calculation pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46(b), for the preceding month, less the hundredweight used in the computation pursuant to subparagraph (1) of this paragraph, whichever is less; and

(3) Multiply the difference between the appropriate Class I price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(4) and the corresponding step of § 1124.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount.

(d) Add an amount equal to the difference between the value at the Class I price applicable to the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I milk pursuant to § 1124.46(a)(5) and the corresponding step of § 1124.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received

(but the adjusted price not to be less than the Class III price), with respect to skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b).

§ 1124.71 Computation of uniform and weighted average prices.

For each month the market administrator shall compute the uniform and weighted average prices per hundredweight of milk as follows:

(a) (1) Combine into one total the values computed pursuant to § 1124.70 for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.81 for the preceding month;

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1124.83;

(3) Subtract, if the average butterfat content of the milk specified in paragraph (1) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1124.84 and multiplying the result by the total hundredweight of such milk;

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

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1124.70(e); and

(6) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price." The result shall also be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location differential is applicable.

Payments for Milk

§ 1124.80 Producer-settlement fund.

(a) The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund."

(b) All payments made by handlers pursuant to § 1124.62 (a) and (b) and § 1124.81 sthall be deposited in the fund and all payments made pursuant to § 1124.82 shall be made out of such fund.

§ 1124.81 Payments to the producer-settlement fund.

On or before the 16th day after the end of each month, each handler shall pay to the market administrator his net pool obligation computed pursuant to § 1124.70, less:

(a) The amount of the deductions and payments authorized by individual producers or cooperative association which are itemized on the handler's producer payroll; and

(b) (1) The value at the weighted average price computed pursuant to § 1124.71(a) applicable at the location of the plant(s) from which received (not to be less than the Class III price) with respect to other source milk for which values are computed pursuant to § 1124.70(e).

(2) In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than the total value of the milk received from such producer.

§ 1124.82 Payments from the producer-settlement fund.

(a) The market administrator shall compute the payment due each producer for milk received during the month from such producer by a handler(s) who made the payments for such month pursuant to § 1124.81 by multiplying the hundredweight of such milk by the appropriate uniform price(s) computed pursuant to § 1124.71 (a) or (b), whichever is applicable, adjusted by the location differential pursuant to § 1124.83 and the butterfat differential pursuant to § 1124.84, and less any charges or deductions made pursuant to § 1124.81(a).

(b) On or before the 20th day after the end of each month the market administrator shall pay direct to each producer who has not authorized a cooperative association to receive payment for such producer or for milk not subject to the Oregon Base Plan pursuant to § 1124.68, the amount of the payment calculated for such producer pursuant to paragraph (a) of this section subject to the provisions of § 1124.86.

(c) On or before the 18th day after the end of each month, the market administrator, subject to the provisions of § 1124.86, shall pay:

(1) To each cooperative association authorized to receive payments due producers who market their milk through such cooperative association, and which is not subject to the Oregon Base Plan pursuant to § 1124.68, an amount equal to the aggregate of the payments calculated pursuant to paragraph (a) of this section for all producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payments; and

(2) To the Director, Milk Audit and Stabilization Division, Oregon State Department of Agriculture, for each producer and cooperative association for milk subject to the Oregon Base Plan pursuant to § 1124.68, the aggregate of the payments otherwise due such individual producers and cooperative associations pursuant to paragraph (b) and subparagraph (c)(1) of this section.

§ 1124.83 Location differentials to producers and on nonpool milk.

In making payments pursuant to § 1124.82, the market administrator shall reduce the uniform price computed pursuant to § 1124.71(a) by the location differential applicable at the location of the plant at which such milk was first physically received from producers and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1124.52; and

(b) For the purpose of computation pursuant to § 1124.81(b) the prices shall be adjusted at the rates set forth in § 1124.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1124.84 Butterfat differential to producers.

In making payments pursuant to § 1124.82 the applicable prices shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of the producer's milk is above or below 3.5 percent, respectively at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1124.46 by the butterfat differential for such class, dividing the sum of such values by the pounds of such butterfat and rounding the resultant figure to the nearest one-tenth cent.

§ 1124.85 Adjustment of accounts.

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

(b) Any unpaid obligation of a handler pursuant to §§ 1124.81, 1124.86, and 1124.87 or paragraph (a) of this section including obligation incurred under this paragraph, shall be increased one-half of 1 percent on the 1st day of the month next following the due date of such obligation and at a similar rate on the 1st day of each month thereafter until such obligation is paid.

§ 1124.86 Marketing services.

(a) In making payments to producers pursuant to § 1124.82, the market administrator shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, with respect to the milk of producers (except the own production of a handler) for whom the marketing services set forth in paragraph (b) are not being performed by a cooperative association.

(b) The monies retained by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information and for the verification of weights, samples and tests of milk of producers for whom a cooperative association is not performing the same services on a comparable basis as determined by the Secretary.

§ 1124.87 Expense of administration.

As his pro rata share of the expense of administration of the order each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk including a handler's own production;

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a) (5) and (9) and the corresponding steps of § 1124.46(b); and

(c) Class I milk disposed of from a partially regulated distributing plant in the marketing area on routes that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1124.88 Termination of obligation.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section terminate 2 years after the last day of the month during which the market administrator received the handler's utilization report on the skim milk and butterfat involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The months during which the skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the names of such producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the 1st day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives.

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

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

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1124.90 Effective time.

The provisions of this order or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1124.91 Suspension or termination.

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

§ 1124.92 Continuing obligations.

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

§ 1124.93 Liquidation.

(a) Upon the suspension or termination of any or all provisions of this order, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(b) If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1124.100 Agents.

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

§ 1124.101 Separability of provisions.

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

Base and excess plan. The following provisions are necessary to effectuate a base and excess plan in the order. If approved by producers voting individually in a separate referendum, they will be added to the preceding order provisions, or substituted for such order provisions, as specified below:

1. Section 1124.19 is added and reads as follows:

§ 1124.19 Base, base milk, and excess milk.

(a) "Base" means a quantity of milk expressed in pounds per day or per month, computed pursuant to § 1124.65 (a) and (b), respectively.

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days of delivery in such month; or

(2) His monthly base computed pursuant to § 1124.65(b): *Provided*, That with respect to any producer with "every-other-day" delivery the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 1124.65(a).

(c) "Excess milk" means any delivery by a producer in excess of base milk.

2. In § 1124.30(a), the text of subparagraph (1) which precedes subdivision (i) is revised to read as follows:

§ 1124.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(1) The receipts of milk and the pounds of butterfat contained therein including the total quantities of base milk and excess milk.

* * * * *

3. In § 1124.31(a), subparagraph (4) is added to read as follows:

§ 1124.31 Payroll reports.

* * * * *

(a) * * *

(4) The pounds of base milk and the pounds of excess milk for each producer.

4. The following centerhead is added after § 1124.62 and §§ 1124.65, 1124.66, and 1124.67 are added and read as follows:

DETERMINATION OF BASE

§ 1124.65 Computation of producer bases.

Subject to the rules set forth in § 1124.66, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant on not less than one hundred twenty (120) days during the months of August through December, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered in such 5-month period by the number of days from the date of his first delivery to the end of such 5-month period. The base so computed, which shall be recomputed each year, shall become effective on the first day of February next following and shall remain in effect through the month of January of the next succeeding year: *Provided*, That for any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of (1) the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, or (2) cancellation of a producer-handler's designation as such, a daily base shall be computed pursuant to this paragraph.

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

§ 1124.66 Base rules.

The following rules shall be observed in the determination of bases:

(a) A base may be transferred upon written notice to the market administrator on or before the last day of the month of transfer, but under the following circumstances only: If a producer who earned a base pursuant to § 1124.65(a) sells, leases, or otherwise conveys his herd to another producer, the latter may receive the transferor's base, pursuant to the conveyance, and utilize such base for the remainder of the period for which such base is effective pursuant to § 1124.65(a), subject to the following conditions:

(1) Such base shall apply to deliveries of milk by the transferee producer from the same farm only;

(2) If such conveyance takes place subsequent to August 1 of any year, all milk delivered to a pool plant(s) between August 1 and the last day of the base-earning period as specified in § 1124.65 (a), inclusive, from the same farm (whether by the transferor or transferee producer) shall be utilized in computing the base of the transferee producer pursuant to § 1124.65(a);

(3) It is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this order; and

(4) Notwithstanding subparagraphs (1) and (2) of this paragraph, but in compliance with subparagraph (3) of this paragraph:

(i) A base, whether earned pursuant to § 1124.65(a) or received by transfer, may be transferred to a member of a baseholder's immediate family; and

(ii) In the case of a baseholder's death, a base earned pursuant to § 1124.65(a) by the baseholder or by a member of his immediate family may be further transferred to an outside party: *Provided*, That for purposes of this subparagraph a transfer to an estate shall not be considered as a transfer to an outside party.

(b) A producer who ceases deliveries to a pool plant for more than 45 days shall lose his base if computed pursuant to § 1124.65(a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1124.65 (b) until he can establish a new base in the manner provided in § 1124.65(a).

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1124.65 (a) may relinquish such base by cancellation. Such producer's base shall be computed in the manner provided by § 1124.65(b) and shall be effective from the first day of the month in which notice is received by the market administrator until the close of the period, pursuant to § 1124.65(a), for which such base was computed.

(d) As soon as bases computed by the market administrator are allotted, notice of the amount of each producer's base shall be given by the market administrator to the handler receiving such producer's milk and the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list or lists showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1124.10 may establish or earn a base pursuant to the provisions of § 1124.65, and only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment used are jointly owned or operated.

§ 1124.67 Announcement of established bases.

On or before February 5 of each year the market administrator shall notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the producer's base computed pursuant to § 1124.65. Such base shall be effective from February 1 of each year through January of the following year.

5. In § 1124.71, paragraph (a)(6) is revised and a new paragraph (b) is added to read as follows:

§ 1124.71 Computation of uniform and weighted average prices.

* * * * * *

(a) * * *

(6) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price." For all months prior to February 1970, the result shall also be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location differential is applicable.

(b) For February 1970 and all subsequent months the market administrator shall compute "uniform prices" for base and excess milk as follows:

(1) From the net amount computed pursuant to paragraph (a) (1) through (4) of this section, subtract the following:

(i) The amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price; and

(ii) The total value of the excess milk computed by assigning such milk in series beginning with Class III to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices for milk containing 3.5 percent butterfat content and adding together the resulting amounts;

(2) Divide the net amount obtained in subparagraph (1) of this paragraph by the total hundredweight of base milk and subtract not less than 4 cents nor more than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 3.5 percent butterfat content; and

(3) Divide the amount obtained in subparagraph (1)(ii) of this paragraph by the total hundredweight of excess milk and subtract any fractional part of 1 cent. This result shall be known as the uniform price per hundredweight of excess milk of 3.5 percent butterfat content.

6. In § 1124.83, the following language is substituted for paragraph (a):

§ 1124.83 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to § 1124.82 the market administrator shall reduce the uniform price computed pursuant to § 1124.71(a) and the uniform price for base milk computed pursuant to § 1124.71(b)(2) by the location differential applicable at the plant where such milk was first physically received from producers, and the uniform prices of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1124.52; and

Signed at Washington, D.C., on July 30, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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