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Washington, Friday, March 13, 1959

Title 3—THE PRESIDENT

Executive Order 10806

INSPECTION OF INCOME, EXCESS-PROFITS, ESTATE, AND GIFT TAX RETURNS BY THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

By virtue of the authority vested in me by sections 55(a) and 508 of the Internal Revenue Code of 1939 (53 Stat. 29, 111; 26 U.S.C. 55(a), 508) and by section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, excess-profits, estate, or gift tax return for the years 1947 to 1959, inclusive, shall, during the Eighty-sixth Congress, be open to inspection by the Senate Committee on Government Operations, or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficiency of the Government, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, approved by me on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
March 10, 1959.

[F.R. Doc. 59-2195; Filed, Mar. 11, 1959; 1:24 p.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Claims Arising From Activities of Military or Civilian Personnel or Incident to Noncombat Activities

Paragraph (a) of § 536.23 is amended to read as follows:

§ 536.23 Settlement of claim.

(a) *Authority.* A claim for not more than \$1,000 under the regulations of §§ 536.12 to 536.23 may be settled, subject to the appeal to the Secretary of the Army, by:

(1) The commanding general of an army or comparable command (including the Military District of Washington, U.S. Army) within the United States, its Territories, possessions, and the Commonwealth of Puerto Rico, or his Staff Judge Advocate, or any officer of The Judge Advocate General's Corps assigned to a maneuver claims service when designated by the commanding general concerned, subject to such limitations as the designating commander may prescribe;

(2) The commanding officer of any post authorized to appoint general courts-martial, or his Staff Judge Advocate subject to such limitation as the commanding general in subparagraph (1) of this paragraph may prescribe.

(3) The commanding officer of any other camp, post, station, or unit, designated by the Secretary of the Army, within such monetary limits as may be prescribed;

(4) Any division engineer, Corps of Engineers, U.S. Army;

(5) Any officer of The Judge Advocate General's Corps assigned to a disaster claims field office when designated by a commander listed in subparagraph (1), (2), (3), or (4) of this paragraph. The authority of such designee to approve claims is limited to the monetary limits of the designating commander and such other limitation as that officer may impose;

(6) Any foreign claims commission; or

(7) Any officer assigned to the Claims Division, Office of The Judge Advocate General, subject to such limitations as the Chief, Claims Division, may prescribe.

[CI, AR 25-25, Feb. 17, 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply sec. 2733, 70A Stat. 153; 10 U.S.C. 2733)

[SEAL] R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 59-2145; Filed, Mar. 12, 1959; 8:46 a.m.]

CONTENTS

THE PRESIDENT

	Page
Executive Order	
Inspection of income, excess-profits, estate, and gift tax returns by the Senate Committee on Government Operations.....	1823

EXECUTIVE AGENCIES

Agricultural Marketing Service	
Proposed rule making:	
Milk in certain marketing areas:	
North Central Iowa.....	1841
Tri-State and Bluefield.....	1834

Rules and regulations:	
Oranges grown in Florida; limitation of shipments.....	1826
Peppers, frozen sweet; U.S. standards for grades; miscellaneous amendments.....	1825
Walnuts grown in California, Oregon, and Washington; revision of control percentages for 1958-59 marketing year...	1826

Agricultural Research Service	
Rules and regulations:	
Scrapie in sheep; notice and quarantine	1825

Agriculture Department	
See Agricultural Marketing Service; Agricultural Research Service; Farmers Home Administration.	

Army Department	
Rules and regulations:	
Claims against the U.S. arising from activities of military or civilian personnel or incident to noncombat activities.....	1823

Civil Aeronautics Board	
Rules and regulations:	
Inspection of records, facilities and equipment; authority of Board representatives.....	1829

Defense Department	
See Army Department.	
Farmers Home Administration	
Rules and regulations:	
Policies and authorities; average values of farms; Georgia...	1824

Federal Aviation Agency	
Rules and regulations:	
Designations of:	
Civil airways; alterations (2 documents)	1830



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CFR SUPPLEMENTS (As of January 1, 1959)

The following supplement is now available:

Title 38 (\$0.55)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 8 (\$0.35); Titles 22-23 (\$0.35); Title 25 (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50); Title 47, Part 30 to end (\$0.30); Title 49, Parts 91-164 (\$0.40)

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

CONTENTS—Continued

Federal Aviation Agency—Con.	Page
Rules and regulations—Continued	
Designations of—Continued	
Continental control area, control areas, control zones, reporting points, and positive control route segments; alterations (2 documents)	1831
Restricted areas; alterations (2 documents)	1832
Federal Power Commission	
Notices:	
Hearings, etc.:	
Armer Drilling Co. et al.	1848
Armer, M. B.	1848
Atlantic Refining Co.	1844

RULES AND REGULATIONS

CONTENTS—Continued

Federal Power Commission—Continued	Page
Notices—Continued	
Hearings, etc.—Continued	
Black Hills Power and Light Co.	1844
Hefner Production Co.	1845
Phillips Petroleum Co.	1846
Rutherford, P. R.	1848
Secure Trusts et al.	1845
Slick Oil Corp. et al.	1846
Sun Oil Co. et al.	1847
Sunray Mid-Continent Oil Co. et al.	1846
Food and Drug Administration	
Rules and regulations:	
Certification of certain drugs; miscellaneous amendments	1833
General Services Administration	
Notices:	
Proposed dispositions from National stockpile:	
Baddeleyite	1844
Zircon concentrates	1844
Health, Education, and Welfare Department	
See Food and Drug Administration.	
Interstate Commerce Commission	
Notices:	
Fourth section applications for relief	1851
Motor carrier transfer proceedings	1851
Proposed rule making:	
Parts and accessories necessary for safe operation; brakes; extension of time for filing statements	1843
Labor Department	
See Public Contracts Division.	
Post Office Department	
Proposed rule making:	
International mail changes in acceptance of eight-ounce merchandise packages	1834
Public Contracts Division	
Proposed rule making:	
Paper and pulp industry; tentative decision in redetermination of prevailing minimum wages	1841
Securities and Exchange Commission	
Notices:	
Hearings, etc.:	
Food Fair Stores, Inc.	1849
Investors Diversified Services, Inc., et al.	1849
Ohio Brass Co.	1850
Upjohn Co.	1850
Wilson & Co., Inc.	1850
Small Business Administration	
Rules and regulations:	
Grants for small business research	1827
Tariff Commission	
Notices:	
Broadwoven silk fabrics; investigation instituted and hearing set	1850

CODIFICATION GUIDE

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

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

3 CFR	Page
Executive order:	
10806	1823
6 CFR	
331	1824
7 CFR	
52	1825
933	1826
984	1826
Proposed rules:	
972	1834
1005	1841
1012	1834
9 CFR	
79	1825
13 CFR	
128	1827
14 CFR	
321	1829
600 (2 documents)	1830
601 (2 documents)	1831
608 (2 documents)	1832
21 CFR	
146c	1833
146e	1833
32 CFR	
536	1823
39 CFR	
Proposed rules:	
111	1834
41 CFR	
Proposed rules:	
202	1841
49 CFR	
Proposed rules:	
193	1843

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

Average Values of Farms; Georgia

On February 18, 1959, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units for the counties identified below were determined to be as herein set forth. The average values heretofore established for said counties, which ap-

pear in the tabulations of average values under § 331.17, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values set forth below for said counties.

GEORGIA

County	Average value	County	Average value
Appling	\$30,000	Jeff Davis	\$30,000
Atkinson	25,000	Jefferson	30,000
Bacon	35,000	Jenkins	30,000
Baker	30,000	Johnson	30,000
Baldwin	30,000	Jones	27,500
Banks	30,000	Lamar	28,000
Barrow	30,000	Lanier	25,000
Bartow	30,000	Laurens	30,000
Ben Hill	30,000	Lee	28,000
Berrien	30,000	Liberty	35,000
Bibb	30,000	Lincoln	30,000
Bleckley	30,000	Long	35,000
Brantley	35,000	Lowndes	30,000
Brooks	30,000	Lumpkin	25,000
Bryan	30,000	McDuffie	25,000
Bulloch	30,000	McIntosh	35,000
Burke	30,000	Macon	30,000
Butts	30,000	Madison	28,000
Calhoun	30,000	Marion	28,000
Camden	30,000	Meriwether	30,000
Candler	30,000	Miller	30,000
Carroll	30,000	Mitchell	30,000
Catoosa	30,000	Monroe	30,000
Charlton	30,000	Montgomery	30,000
Chatham	30,000	Morgan	30,000
Chattoohoc	28,000	Murray	25,000
chee	28,000	Muscogee	30,000
Chattooga	30,000	Newton	30,000
Cherokee	25,000	Oconee	30,000
Clarke	30,000	Oglethorpe	30,000
Clay	30,000	Paulding	30,000
Clayton	30,000	Peach	30,000
Clinch	25,000	Pickens	25,000
Cobb	30,000	Pierce	35,000
Coffee	30,000	Pike	28,000
Colquitt	30,000	Polk	30,000
Columbia	25,000	Pulaski	30,000
Cook	30,000	Putnam	30,000
Coweta	30,000	Quitman	28,000
Crawford	30,000	Rabun	30,000
Crisp	30,000	Randolph	30,000
Dade	25,000	Richmond	25,000
Dawson	25,000	Rockdale	30,000
Decatur	30,000	Schley	30,000
De Kalb	30,000	Screven	30,000
Dodge	30,000	Seminole	32,500
Dooly	30,000	Spalding	30,000
Dougherty	30,000	Stephens	30,000
Douglas	30,000	Stewart	28,000
Early	30,000	Sumter	30,000
Echols	25,000	Talbot	28,000
Effingham	30,000	Taliaferro	30,000
Elbert	30,000	Tattnall	35,000
Emanuel	30,000	Taylor	28,000
Evans	30,000	Telfair	30,000
Fannin	25,000	Terrell	30,000
Fayette	30,000	Thomas	30,000
Floyd	30,000	Tift	30,000
Forsyth	25,000	Toombs	30,000
Franklin	30,000	Towns	30,000
Fulton	30,000	Treutlen	30,000
Gilmer	25,000	Troup	30,000
Glascoc	25,000	Turner	30,000
Glynn	30,000	Twiggs	25,000
Gordon	30,000	Union	30,000
Grady	30,000	Upson	30,000
Greene	30,000	Walker	30,000
Gwinnett	30,000	Walton	30,000
Habersham	30,000	Ware	35,000
Hall	30,000	Warren	30,000
Hancock	30,000	Washington	30,000
Haralson	30,000	Wayne	30,000
Harris	30,000	Webster	30,000
Hart	30,000	Wheeler	30,000
Heard	25,000	White	30,000
Henry	30,000	Whitfield	25,000
Houston	30,000	Wilcox	30,000
Irwin	30,000	Wilkes	30,000
Jackson	30,000	Wilkinson	30,000
Jasper	30,000	Worth	30,000

(Sec. 41, 50 Stat. §28, as amended; 7 U.S.C. 1015)

Dated: March 9, 1959.

[SEAL]

K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F.R. Doc. 59-2169; Filed, Mar. 12, 1959; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[B.A.I. Order 384, Amdt. 11]

PART 79—SCRAPIE IN SHEEP

Notice and Quarantine

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, 33 Stat. 1264, as amended, sections 4 and 5 of the Act of May 29, 1884, 23 Stat. 32, as amended, and sections 1 and 2 of the Act of February 2, 1903, 32 Stat. 791, as amended (21 U.S.C. 111-113, 120, 121, 123, 125), § 79.2, Part 79, Title 9, Code of Federal Regulations, 1957 Supp., as amended, containing a notice of the existence in certain areas of the disease of sheep known as scrapie and establishing a quarantine because of said disease, is hereby amended to read as follows:

§ 79.2 Notice and quarantine.

Notice is hereby given that sheep in Illinois and Ohio are affected with scrapie, a contagious, infectious, and communicable disease, and the following areas in said States are hereby quarantined because of said disease:

(a) Illinois.

La Salle County: SW 120 acres of the SW quarter (¼) of Section 13, Township 34 N., Range 5 E.;

(b) Ohio.

Crawford County: That part of Holmes Township (known as the Pearson L. Linn Farm) consisting of a rectangular area extending 160 rods from east to west and 1.2 miles from south to north, bounded on the south by Holmes Center Road No. 36 and bounded on the east by Temple Road; and a rectangular area extending 160 rods from west to east and 1.5 miles from south to north, bounded on the south by Holmes Center Road No. 36 and bounded on the west by Temple Road. (These two areas are separated from south to north by Temple Road.)

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

The amendment removes the quarantine from areas in Warren County in Illinois and Pickaway County in Ohio, previously quarantined because of scrapie, and continues the quarantine of certain areas in La Salle County in Illinois and Crawford County in Ohio, because of scrapie (23 F.R. 8904).

The amendment relieves certain restrictions presently imposed. It should

be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791, as amended, secs. 1, 3, 33 Stat. 1264, as amended; 21 U.S.C. 111-113, 120, 121, 123, 125. Interpret or apply secs. 6, 7, 23 Stat. 32, as amended, secs. 2, 4, 33 Stat. 1264, as amended; 21 U.S.C. 115, 117, 124, 126)

Done at Washington, D.C., this 9th day of March 1959.

[SEAL]

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

[F.R. Doc. 59-2168; Filed, Mar. 12, 1959; 8:50 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Frozen Sweet Peppers¹

MISCELLANEOUS AMENDMENTS

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.) the United States Standards for Grades of Frozen Sweet Peppers (7 CFR 52.3001-52.3012) are hereby amended as follows:

1. In § 52.3008, delete paragraph (d) and substitute therefor the following:

(d) (SStd.) classification. Frozen sweet peppers that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 13 points and shall not be graded above U.S. Grade B or U.S. Extra Standard, regardless of the total score for the product (this is a partial limiting rule).

2. In § 52.3009 (a), delete subparagraphs (2) and (3) and substitute therefor the following:

(2) "Well trimmed" means that the unit is free from gouges or knife marks and with respect to whole unstemmed style that the stem is trimmed to not more than one-half inch length and with respect to whole stemmed and halved styles that the stem, core, seeds, and placenta tissue are neatly removed so as

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

to retain substantially the appearance of a whole or halved unit.

(3) "Reasonably well trimmed" means that the unit is practically free from gouges or knife marks and with respect to whole unstemmed style that the stem is trimmed to not more than one-half inch length and with respect to whole stemmed and halved styles that the stem, core, seeds, and placenta tissue have been removed so as to retain to a reasonable extent the appearance of a whole or halved unit.

3. In the "score sheet" under § 52.3012, column headed "Score Points," insert small numeral "2" immediately preceding "0-13" for the factor "Uniformity of size and symmetry;" also add as a footnote "2 Indicates partial limiting rule."

Notice of proposed rule making, public procedure thereon, and the postponement of the effective date of these amendments for 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001 et seq.) are unnecessary and contrary to the public interest, in that: (1) Such amendments will operate to liberalize and clarify existing provisions of the grade standards for frozen sweet peppers, (2) will not cause the making of any substantial changes in the present processed product packing and handling operations, and (3) any changes necessary with respect to such packing and handling operations can be readily made without inconvenience to the industry.

Dated March 10, 1959, to become effective upon date of publication in the FEDERAL REGISTER.

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

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 59-2157; Filed, Mar. 12, 1959;
8:48 a.m.]

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

[Orange Reg. 357, Amdt. 1]

PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple 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 (60 Stat. 237; 5 U.S.C. 1001 et seq.) 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 restrictions on certain shipments of Temple oranges, grown in Florida.

Order, as amended. The provisions in paragraph (b) of § 933.961 (24 F.R. 1495) are hereby amended as follows:

1. Delete subdivisions (i), (ii), (iii), and (iv) of subparagraph (2) and substitute therefor the following:

(i) Any oranges, except Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Bronze;

(ii) Any oranges, except Temple oranges, grown in the production area, which are of a size smaller than a size that will pack 288 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iii) Any oranges, except Temple oranges, grown in the production area, which are of a size larger than a size that will pack 126 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box.

2. Add a new subparagraph (3), as follows:

(3) During the period beginning at 12:01 a.m., e.s.t., March 13, 1959, and ending at 12:01 a.m., e.s.t., July 31, 1959, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 2; or

(ii) Any Temple oranges, grown in the production area, which are of a size smaller than $2\frac{3}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140 to 51.1186 of this title).

Effective date. The provisions of this amendment shall become effective at 12:01 a.m., e.s.t., March 13, 1959.

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

Dated: March 11, 1959.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Market-
ing Service.

[F.R. Doc. 59-2191; Filed, Mar. 12, 1959;
8:50 a.m.]

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

Revision of Control Percentages for 1958-59 Marketing Year

Notice was published in the FEDERAL REGISTER on February 17, 1959 (24 F.R. 1215) that the Secretary was considering revision of certain control percentages for walnuts grown in California, Oregon, and Washington applicable during the marketing year beginning August 1, 1958. This proposed action was based on recommendations of the Walnut Control Board and other available information, in accordance with the applicable provisions of Marketing Agreement No. 105, as amended, and Order No. 84, as amended, regulating the handling of walnuts grown in California, Oregon, and Washington (7 CFR Part 984), effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The aforesaid notice afforded interested persons an opportunity to file data, views, or arguments with the Department prior to establishment of the percentages. The prescribed time has expired and no such communications have been received.

After consideration of all relevant matters and of information available, including the proposals contained in said notice, it is hereby found that the surplus percentage established for District 2 (Oregon and Washington) applicable during the 1958-59 marketing year (23 F.R. 8621) is too high in relation to the standards prescribed in § 984.52(a). Therefore, it is ordered, that the marketable, surplus, and diversion percentages for District 2 as set forth in § 984.210 Control percentages for walnuts during the marketing year beginning August 1, 1958 (23 F.R. 8621) be revised to read as follows:

District 2		Percent
Marketable percentage.....		92
Surplus percentage.....		8
Diversion percentage.....		8.7

It is hereby further found that good cause exists for not postponing the effective date of this order later than the date of its publication in the FEDERAL REGISTER for the reason that: (1) The action applies to all merchantable walnuts handled by handlers in District 2 during the marketing year which began August 1, 1958, and such handling is largely completed; (2) compliance with the percentages herein revised will require no special preparation on the part of handlers; and (3) the action results in relieving restrictions on handlers.

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

Dated March 10, 1959, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 59-2167; Filed, Mar. 12, 1959;
8:49 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

PART 128—GRANTS FOR SMALL BUSINESS RESEARCH

On January 28, 1959 notice of proposed rule making regarding the regulations governing grants for small business research pursuant to section 7(d) of the Small Business Act, as amended, was published in the FEDERAL REGISTER (24 F.R. 607). After consideration of all such relevant matters as was presented by interested persons regarding the rules proposed, the regulations as so proposed with changes resulting from said consideration, are hereby adopted as set forth below.

Due to the need for the prompt initiation and establishment of the program authorized under section 7(d) of the Small Business Act, as amended, the subject regulations shall become effective upon publication thereof in the FEDERAL REGISTER.

Sec.	Statutory provision.
128.7	Statutory provision.
128.7-1	Scope.
128.7-2	Definitions.
128.7-3	Organization.
128.7-4	Who makes a grant.
128.7-5	Who is eligible for a grant.
128.7-6	Purpose of a grant.
128.7-7	Amount of a grant.
128.7-8	Application for a grant.
128.7-9	Suggestion for preparing a proposal.
128.7-10	Method of evaluating and selecting a proposal.
128.7-11	Administration of a grant.
128.7-12	Revocation of a grant.
128.7-13	Typical conditions of a Grant Agreement.

AUTHORITY: §§ 128.7 to 128.7-13 issued under Pub. Law 85-536, sec. 5, 72 Stat. 385.

§ 128.7 Statutory provisions.

Sec. 7(d). The Administration also is empowered to make grants to any State Government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agriculture for studies, research and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of section 8(b)(1) by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of \$40,000. Such grants shall be made from the fund established in the Treasury by section 602(b) of the Small Business Investment Act of 1958.

§ 128.7-1 Scope.

(a) The regulations in this part govern the issuance of grants by the Small Business Administration for studies, research and counseling concerning the managing, financing and operation of small business enterprises authorized by section 7(d) of the Small Business Act, as amended.

(b) Under section 7(d) of the Act, the Small Business Administration is authorized to make grants to finance the development and gathering of information relating to managing, financing and operation of small business enterprises. This information will be used to provide managerial aids to small business in accordance with the provisions of section 8(b)(1) of the Small Business Act, as amended. (See § 124.8 of this chapter.) This information will be coordinated with informational facilities within the States and made available to State and local agencies.

§ 128.7-2 Definitions.

As used in this part:

(a) "Act" means the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699).

(b) "Administrator" means the Administrator of SBA.

(c) "Application" means a written request for a grant.

(d) "Counseling" means consulting and advising with SBA for the purpose of developing information concerning the managing, financing and operation of small business enterprises, such information to be channeled through SBA for the use of national, State, and local agencies and institutions listed in section 8(b)(1) of the Small Business Act.

(e) "Director" means the Director of the Office of Management and Research Assistance.

(f) "Grant" means a grant authorized under section 7(d) of the Act.

(g) "Grant Agreement" means the instrument which describes the project and sets out the conditions of the grant.

(h) "Grantee" means an institution to which a grant has been made.

(i) "Institution" means any State government or any agency thereof, any State chartered development credit or financial corporation, any college, any university, and any school of business, engineering, commerce or agriculture, either public or private.

(j) "Project" means a proposal and any amendments thereto, approved by SBA.

(k) "Project Director" means the person assigned by an institution to supervise and be responsible for a research program under a grant.

(l) "Proposal" means a research program, which may include "studies," submitted by an institution for the application for a grant under section 7(d) of the Act.

(m) "Research" means research, studies, and counseling which will result in information to be distributed by SBA, acting as a clearinghouse, to national, state, and local agencies and institutions listed in section 8(b)(1) of the Small Business Act. Research includes basic and secondary investigations.

(n) "SBA" means the Small Business Administration.

(o) "Small business concern" or "Small business enterprise" means a business concern which would qualify as a small business, as defined by SBA in Part 121 of this chapter.

(p) "State" means the several States, the Territories and possessions of the

United States, the Commonwealth of Puerto Rico and the District of Columbia.

(q) "State government or agency thereof" means departments, divisions or other designated organizations controlled and operated by the State including State government corporations.

(r) "Studies" means brief investigations of the economic background or problems of an industry or specific small business in its geographic locality but shall not include management or financial counseling or credit analysis.

(s) "Year" means the fiscal year beginning July 1 and ending June 30.

§ 128.7-3 Organization.

(a) The grant program authorized by section 7(d) of the Act is administered through the Office of Management and Research Assistance, Small Business Administration, Washington 25, D.C. The Director of this office is responsible for planning and coordinating small business management and research assistance programs and coordinating the activities of the Management Research Advisory Council.

(b) The Management Research Advisory Council is an advisory group established to examine and make recommendations with respect to the merits of an application for a grant and to furnish advice on the grant program. The function of said Council is purely advisory. The members of the Council are selected and appointed by the Administrator and serve at his pleasure and without compensation.

(c) All recommendations of the Management Research Advisory Council are submitted to the Administrator who, in his discretion, shall determine which proposals shall be approved and which suggestions shall be put into practice.

(d) An application for a grant shall be submitted to SBA in accordance with the regulations contained in this part.

§ 128.7-4 Who makes a grant.

SBA is empowered to make grants from a special fund in the Treasury established by section 602 of the Small Business Investment Act of 1958 (Pub. Law 85-699).

§ 128.7-5 Who is eligible for a grant.

Any State government or any agency thereof, any State chartered development credit or finance corporation, any university, any college and any school of business, engineering, commerce or agriculture, either public or private, is eligible to receive a grant.

§ 128.7-6 Purpose of a grant.

(a) A grant will be made by SBA only to finance research concerning the managing, financing and operation of small business enterprises to develop information or techniques which can be used by public or private organizations to aid small business enterprises, or to develop information which improves knowledge of the economy through research on the small business sector.

(b) No proposal nor portion of a proposal will be approved if its primary purpose is to provide information to be used to urge industry and trade located in one state to move to another.

§ 128.7-7 Amount of a grant.

No grant may exceed an aggregate amount of \$40,000. Only one such grant may be made within any one State in any one year. SBA is not authorized to commit itself in any year to make a grant during subsequent years.

§ 128.7-8 Application for a grant.

(a) An application for a grant shall be submitted in the form of a proposal to perform research under a grant. Such a proposal may be initiated by any institution described in § 128.7-5. Prior to submission, a proposal may be discussed informally with SBA staff members. When appropriate, SBA staff members may suggest a new proposal or modification of a proposal submitted. If two or more institutions within a State desire to cooperate in carrying out related proposals, such a combined proposal may be considered. However, only one grant may be authorized. Therefore, the proposal must designate which of the cooperating institutions is to be the grantee. This institution will be responsible to SBA for carrying out the proposal in its entirety and SBA will not be obligated in any way to any institution other than the grantee.

(b) Applications must be received by SBA on or before the 31st day of October of the fiscal year for which the grant is requested; provided, however, that for the fiscal year ending June 30, 1959, all applications must be received prior to the 31st day of March 1959.

(c) Ten copies of the application shall be submitted on letter size paper to the Director, Office of Management and Research Assistance, Small Business Administration, Washington 25, D.C. Applications received by SBA will not be returned to the applicants.

§ 128.7-9 Suggestions for preparing a proposal.

SBA does not require any specific form for a proposal. However, the following information insofar as it may be applicable must be included:

(a) *Name and address of the institution.*

(b) *Name of the project director.*

(c) *Title of proposal.* The title of the proposal should be brief but properly descriptive.

(d) *Description of proposal.* A description of the work to be undertaken, its objectives and contribution to small business concerns, the need therefor and its relation, if any, to comparable work already completed or in progress elsewhere and a description of the techniques to be employed in performance of the research.

(e) *Procedure.* This should consist of an outline of the general plan of work and the procedure to be followed.

(f) *Personnel.* A short biographical sketch and a bibliography of the professional writings of the Project Director and other professional personnel assigned to the program should be included.

(g) *Budget.* The budget should comprise an estimate of the total cost of the proposal and the time required to complete the work. Funds requested from

SBA should be indicated for each of the categories listed below. If there are contributions from other sources, itemize in similar categories.

(1) *Salaries.* Itemize position, giving names of professional personnel, if selected.

(2) *Supplies.* Indicate the estimated dollar value of the supplies that will be required.

(3) *Travel.* Indicate briefly the type and frequency of travel required in connection with the proposal.

(4) *Publication.* Indicate the cost of printing 500 copies of the final report or suggest unit cost if some other means of presentation of research project appears to be more appropriate.

(5) *Other direct costs.* Itemize other direct costs not included in subparagraphs (1) through (4) of this paragraph.

(6) *Indirect costs.* List indirect costs attributable to the proposal. In general, indirect costs should not exceed 15 percent of the total of funds for direct costs requested of SBA.

(h) *Signature.* The original and one copy of the proposal should be signed by the Project Director, if available, and by the official authorized to sign for the institution.

§ 128.7-10 Method of evaluating and selecting a proposal.

(a) A proposal will be reviewed by the Office of Management and Research Assistance for eligibility and other requirements set forth in this part. A proposal which, on its face, appears eligible and meritorious shall be submitted to the Management Research Advisory Council for a further examination of the merits of the proposal. The Council will recommend to the Administrator a proposal which merits a grant. The Administrator may, within his discretion, approve or reject this recommendation.

(b) A proposal shall be evaluated on the basis of the current need and priority of importance of the anticipated results; the qualifications and experience of the Project Director and staff; the practicability and utility of the proposal; the amount of total direct expenses as compared with overhead expenses; and the amount of added funds to be contributed or arranged for by the institution itself.

(c) Although matching funds are not required, the competing proposal in any State which is approved will be the one with the greatest amount of matching funds, when other conditions are approximately equal. These matching funds can be measured either in terms of dollar value of services performed (not included as such in the grant) or supplementary contributions of cash to be used in the conduct of the research project.

§ 128.7-11 Administration of a grant.

(a) *Conditions of a grant.* The typical grant agreement will contain express conditions, which when accepted will bind the grantee. These conditions relate to the nature and scope of the research, revocation of the grant, return of unused funds, and other conditions according to the purposes for which the

grant is made. The conditions of a typical grant agreement are set forth in § 128.7-13. Conditions contained in the grant agreement agreed to by SBA and the grantee may be amended by mutual agreement of the parties but the amount of the original grant may not be increased as a result of any such amendments to an amount in excess of \$40,000.

(b) *Establishing the amount of a grant.* In considering the budget for a grant, SBA will recognize that substantial contributions may be made by the grantee in such form as space, equipment, library facilities, and, in many cases, as payment of the salaries or parts of the salaries of the Project Director and staff. SBA normally will include in the grant, funds for such items as the salaries of personnel, materials, necessary travel, publication and other direct costs.

(c) *Grant period.* The Act limits SBA to making one grant within any one State in any one year; however, the project does not have to be completed within the year but may be for a period of longer duration as provided in the grant agreement. When progress of research under the grant is delayed and circumstances make it necessary to request an extension of the grant period without additional funds, SBA may, upon written request of the grantee, permit extensions in time. Such an extension, however, may require a spread out of the remaining payments under the grant.

(d) *Payment of a grant.* In general, payment will be made in advance on a periodic basis, the amount of each payment depending upon the need at the particular time, the relative size of the total grant, and the estimated length of the project. A final payment will be made upon completion of the project and approval and acceptance by SBA of the final report.

(e) *Accounting procedures and audit.* While no particular classification of accounts is required, a grantee shall keep such accounts for each project (in accordance with generally accepted accounting practices) as are necessary to permit it to prepare the required financial reports as required in paragraph (f) of this section, and to make possible a determination by SBA that the grant has been used for the purposes for which the grant was made. All accounting records relating to expenditures under the grant are subject to inspection and audit by representatives of SBA and the United States General Accounting Office during the life of the grant and for three years thereafter.

(f) *Reports.* (1) Progress and financial reports must be made to SBA on work financed by the grant. Specific conditions regarding frequency of submission and nature of reports will be set forth in each grant agreement.

(2) The final report on the project must be submitted to SBA within the time allowed. From time to time, SBA representatives may visit the project sites and, at such time, verbal reports will be expected.

(g) *Completion of the project.* Upon completion of the project, all unexpended funds shall be returned to SBA

by check made payable to the "Small Business Administration."

§ 128.7-12 Revocation of a grant.

Each grant will be made subject to a condition that it may be revoked in whole or in part by SBA after consultation with the Project Director and the grantee. A revocation shall not affect any commitment of funds made by the grantee which was made in accordance with the project prior to the effective date of revocation. Any substantial deviation from the project will be deemed to be a breach of the grant agreement and grounds for termination of the grant in its entirety. In this event SBA assumes no responsibility for any commitment of funds made by the grantee.

§ 128.7-13 Typical conditions of a grant agreement.

Except where the circumstances require other conditions, a typical SBA grant agreement will contain the following conditions:

(a) *Payment.* Unless otherwise notified, the funds authorized by this grant will be paid by SBA as follows: \$(amount) on or about (date); \$(amount) on or about (date); \$(amount) on or about (date); and a final payment of \$(amount) will be made upon completion of the project and approval and acceptance by SBA of the financial and project reports referred to herein.

(b) *Unexpended funds.* Upon completion of the project, all unexpended funds shall be returned to SBA by check made payable to the "Small Business Administration."

(c) *Project Director.* (1) The project shall be directed and supervised by (name and address of Project Director) (hereinafter called "Project Director").

(2) SBA shall be notified if the Project Director resigns, is removed from office or leaves for any other reason. Appointment of a successor Project Director is subject to approval by SBA.

(d) *Accounts and reports.* (1) The grantee shall keep such accounts (in accordance with accepted accounting practices) as are necessary to permit it to prepare the required financial reports set forth herein and to make possible a determination by SBA that the grant has been used for the purposes for which the grant was made.

(2) The grantee shall permit inspection and audit by representatives of SBA and the United States General Accounting Office of expenditures under the grant during the life of the grant and for three years thereafter.

(3) The grantee shall submit, in addition to the final project report, (quarterly, semi-annual or other) progress reports and (quarterly, semi-annual or other) financial reports and, in addition thereto, the grantee shall make verbal reports to SBA representatives whenever such representatives visit the project site.

(4) The project shall be completed by (date) and the final reports shall be submitted to SBA by (date) unless an extension of time for completion has been approved by SBA in writing.

(5) All reports must be submitted in triplicate on white bond paper, letter

size, accurately typewritten and double spaced.

(e) *Revocation.* This grant may be revoked in whole or in part by SBA after consultation with the Project Director and the grantee. If it is determined that there shall be a revocation, such action shall not affect commitments of funds made by the grantee which were made in accordance with the project prior to the effective date of revocation. If the revocation is due to substantial deviation from the project and this agreement by the grantee, then the entire sum of the grant then paid to the grantee may be recovered by SBA, and SBA shall not be responsible for commitments of funds made by the grantee.

Dated: March 10, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-2229; Filed, Mar. 12, 1959;
10:40 a.m.]

Title 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board— Federal Aviation Agency

SUBCHAPTER D—SAFETY INVESTIGATION REGULATIONS

[Reg. SIR-2]

PART 321—INSPECTION OF RECORDS, FACILITIES AND EQUIPMENT

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of March 1959.

Under section 701(a) of the Federal Aviation Act of 1958, it is the duty of the Board to investigate and determine the probable cause of accidents and, as a separate responsibility, to ascertain what will best tend to reduce the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents. In the performance of these duties under the Civil Aeronautics Act of 1938, as amended, the Board promulgated regulations implementing its inspection authority relative to its powers and duties under Title VII, and such provisions were set forth in detail in the various Civil Air Regulations. In addition, Part 240 of the Board's Economic Regulations construes the issuance of a prescribed identification card and credentials to an employee of the Board's Bureau of Safety Investigation as constituting an order and direction of the Board to such individual to inspect the equipment and records of an air carrier.

In connection with the transfer by the Federal Aviation Act of 1958 of the Board's safety regulatory functions to the new Federal Aviation Agency, certain changes in the Civil Air Regulations were deemed necessary by the Administrator of the Federal Aviation Agency in order to conform these regulations to the provisions of the new Act. The Administrator, therefore, issued an amendment, effective December 31, 1958 (24 F.R. 4), to the Civil Air Regulations which revised the references therein to

the Administrator of Civil Aeronautics and deleted certain provisions pertaining to the safety inspection authority of the Board. The result is that the full scope of the Board's inspection authority under Title VII of the Act is not presently completely set forth in regulatory form.

The Board presently has under preparation new regulations which will fully cover the Board's activities in the accident investigation and accident prevention fields, and it is expected that these regulations will be issued in the very near future. However, in order that the Board's powers of inspection and investigation be set forth in a form readily available to the public during the interim period, it is necessary that a regulation be promulgated spelling out the Board's authority to inspect or examine aircraft, equipment, facilities, personnel and records pertinent thereto or other matters relevant to the performance of the Board's duties under Title VII.

The provisions contained in this regulation are substantially those which were spelled out throughout the Civil Air Regulations and Part 240, and, in effect, continue those provisions. No person will be subjected to any additional requirements.

Therefore, and for the reasons stated above, the Board finds that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are unnecessary, and that good cause exists for making this regulation effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Safety Investigation Regulation, effective March 13, 1959, to read as follows:

§ 321.1 Authority of Board representatives.

Upon demand of an authorized representative of the Board and presentation of the credentials issued to such representative, any air carrier, airman, or person engaged in air commerce or in any phase of aeronautics, and any other person having possession or control of any aircraft, aircraft engine, propeller, appliance, air navigation facility, equipment, or any pertinent records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept or required to be kept, shall forthwith permit inspection, photographing or copying thereof by such authorized representative for the purpose of the investigation of an accident or any special study or investigation pertaining to safety in air navigation or the prevention of accidents. Authorized representatives of the Board may interrogate any person having knowledge relevant to such study or investigation.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324(a). Interpret or apply secs. 701, 702, 703, 1004, 72 Stat. 781, 782, 792; 49 U.S.C. 1441, 1442, 1443, 1484)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 59-2166; Filed, Mar. 12, 1959;
8:49 a.m.]

Chapter II—Federal Aviation Agency

[Amdt. 7]

PART 600—DESIGNATION OF CIVIL AIRWAYS

Alterations

This action constitutes a minor alteration in the designation of Red Airway No. 3 which deletes that portion of the airway between the Philadelphia, Pa., radio range station and the Port Chester, N.Y., Intersection. This action is taken concurrently with the establishing of the McGuire Air Force Base military climb corridor at Wrightstown, New Jersey (Restricted Area R-539), and the minor alterations being made in control zone and control areas in the area of the McGuire Air Force Base. While this entire action relates to a military function, it is necessary primarily to protect civil air traffic from the hazards created by high-performance type military aircraft operating in an area in which separation cannot be provided by any other means at the present time. This matter was proposed by the Air Force and coordinated with the civilian aviation organizations, the Army, and the Navy through the Air Coordinating Committee. Therefore, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. This action, however, is being made effective 30 days after publication in compliance with the Act.

Accordingly, Part 600 is amended as follows:

1. Section 600.203 is amended to read:
§ 600.203 Red civil airway No. 3 (Philipsburg, Pa., to Harrisburg, Pa.).

From the Philipsburg, Pa., RR to the Harrisburg, Pa., RR.

(Sec. 313(a) of the Federal Aviation Act of August 28, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

This amendment shall become effective 0001 e.s.t. May 7, 1959.

Issued at Washington, D.C., on March 5, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-2158; Filed, Mar. 12, 1959; 8:48 a.m.]

[Amdt. 6]

PART 600—DESIGNATION OF CIVIL AIRWAYS

Alterations

The Air Force has advised the FAA that it intends to conduct extensive jet training involving acrobatics, formation, and instrument flying in the Lubbock/Big Spring/Midland/Roswell area. These operations are expected to exceed 500 sorties per day. According to the Air Force, the operations are necessary to carry out its military mission. A study of the situation reveals that the intermixing of such large scale military operations with civil air traffic would present a serious hazard to air commerce. Con-

sequently, a means must be provided to segregate the military and civil air traffic in the area.

Action is being taken to establish five restricted areas (R-552, R-553, R-554, R-555, and R-556) of various sizes to enable the Air Force to conduct jet training using aircraft operated from Webb AFB and Reese AFB. Four of the areas will have a floor of 12,000 feet and a ceiling of 26,000 feet MSL with the fifth area having a floor of 10,000 feet and a ceiling of 26,000 feet MSL. Part of the action taken establishes control areas co-extensive with the restricted areas having the same floors as the restricted areas but having ceilings at 24,000 feet (the floor of the continental control area) instead of 26,000 feet MSL. The controlling agency for these restricted/control areas will be the FAA El Paso ARTC Center, which will make the areas available for use by the users in accordance with agreements made with the Air Force Bases. Normally, the restricted areas will be in use by the Air Force during daylight hours, Monday through Friday, when VFR weather conditions exist. When not in use by the military, the co-extensive control areas and the airways traversing the areas will be utilized by air traffic under the control of the FAA El Paso ARTC Center. There will be no concurrent use of the areas, however, by en route traffic and the segregated military training operations. Other necessary action, such as the designation and redesignation of civil airways is being taken herein.

This entire action is taken only after careful study and consideration of the various problems involved and proposals made by interested persons. In this connection, it should be noted that a Civil/Military team made an extensive study of the problems involved and the action taken herein is largely in accord with the team's recommendations. Nevertheless, the entire matter was also submitted to the processes of the Air Coordinating Committee where it was coordinated with and considered by the various civilian aviation organizations, the Army, the Navy, and the Air Force. It is believed that all interested and affected persons have been afforded an opportunity to comment and submit recommendations concerning this action. Under these circumstances, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. However, the effective date provision of section 4 is being complied with. Furthermore, in accordance with the requirements of CAR Amendment 60-14, adopted by the Civil Aeronautics Board on December 29, 1958, the designation of the floors of the control areas established herein higher than 700 feet above the surface will not become effective until 30 days after publication.

Accordingly, Part 600 is amended as follows:

§ 600.6014 [Amendment]

1. Section 600.6014 VOR civil airway No. 14 (Roswell, N. Mex., to Boston, Mass.) is amended by changing all before "Hobart, Okla., omnirange station;" to read: "From the Roswell, N. Mex., VOR

via the INT of the Roswell VOR 063° and the Lubbock VOR 277° radials; Lubbock, Tex., VOR, including a south alternate from the Roswell VOR direct to the Lubbock VOR; Childress, Tex., VOR, including a south alternate via the INT of the Lubbock VOR 086° and the Childress VOR 229° radials; Hobart, Okla., VOR;".

2. Section 600.6060 is amended to read:

§ 600.6060 VOR civil airway No. 60 (Albuquerque, N. Mex., to Lubbock, Tex.).

From the Albuquerque, N. Mex., VOR via the Otto, N. Mex., VOR, including a south alternate; Las Vegas, N. Mex., VOR; Tucumcari, N. Mex., VOR; Texico, N. Mex., VOR; INT of the Texico VOR 122° and the Lubbock VOR 008° radials; Lubbock, Tex., VOR, including a south alternate from the Texico VOR direct to the Lubbock VOR.

3. Section 600.6062 is amended to read:

§ 600.6062 VOR civil airway No. 62 (Prescott, Ariz., to Abilene, Tex.).

From the Prescott, Ariz., VOR via the point of INT of the Prescott VOR 095° and the Zuni VOR 252° radials; Zuni, N. Mex., VOR; INT of the Zuni VOR 066° and the Santa Fe VOR 268° radials; Santa Fe, N. Mex., VOR; Anton Chico, N. Mex., VOR; Texico, N. Mex., VOR; INT of the Texico VOR 122° and the Lubbock VOR 008° radials; Lubbock, Tex., VOR, including a south alternate from the Texico VOR direct to the Lubbock VOR; INT of the Lubbock VOR 101° and the Abilene VOR 327° radials; to the Abilene, Tex., VOR.

4. Section 600.6076 is amended to read:

§ 600.6076 VOR civil airway No. 76 (Lubbock, Tex., to Galveston, Tex.).

From the Lubbock, Tex., VOR via the INT of the Lubbock VOR 188° and the Big Spring VOR 286° radials; Big Spring, Tex., VOR, including a north alternate from the Lubbock VOR direct to the Big Spring VOR; San Angelo, Tex., VOR, including a north alternate via the point of INT of the Big Spring VOR 124° and the San Angelo VOR 024° radials; Llano, Tex., VOR; Austin, Tex., VOR; including a north alternate from the San Angelo VOR to the Austin VOR via the Lometa, Tex., VOR; Houston, Tex., VOR; to the Galveston, Tex., VOR.

5. Section 600.6079 is amended to read:

§ 600.6079 VOR civil airway No. 79 (Fort Stockton, Tex., to Lubbock, Tex.).

From the Fort Stockton, Tex., VOR via the Wink, Tex., VOR; Hobbs, N. Mex., VOR; INT of the Hobbs VOR 077° and the Lubbock VOR 188° radials; Lubbock, Tex., VOR, including a west alternate from the Hobbs VOR direct to the Lubbock VOR.

6. Section 600.6102 is amended to read:

§ 600.6102 VOR civil airway No. 102 (Roswell, N. Mex., to Wichita Falls, Tex.).

From the Roswell, N. Mex., VOR via the point of INT of the Roswell VOR 080° and the Texico, N. Mex., VOR 216°

radials; the point of INT of the Texico, N. Mex., VOR 216° and the Lubbock VOR 277° radials; Lubbock, Tex., VOR; Guthrie, Tex., VOR; to the Wichita Falls, Tex., VOR, including a south alternate via the INT of the Guthrie VOR 103° and the Wichita Falls VOR 247° radials.

7. Section 600.6280 is amended to read:

§ 600.6280 VOR civil airway No. 280 (El Paso, Tex., to Kansas City, Mo.).

From the El Paso, Tex., VOR via the point of INT of the El Paso VOR 092° and the Pinon VOR 219° radials; Pinon, N. Mex., VOR; Roswell, N. Mex., VOR; INT of the Roswell VOR 080° and the Texico VOR 216° radials; Texico, N. Mex., VOR; INT of the Texico VOR 021° and the Amarillo VOR 267° radials; to the Amarillo, Tex., VOR. From the Gage, Okla., VOR via the Hutchinson, Kans., VOR; INT of the Hutchinson VOR 062° and the Topeka VOR 236° radials; Topeka, Kans., VOR; INT of the Topeka, VOR 064° and the Kansas City VOR 275° radials; to the Kansas City, Mo., VOR. The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the McGregor Restricted Area (R-211) is excluded during this restricted area's time of designation.

8. Section 600.6284 is amended to read:

§ 600.6284 VOR civil airway No. 284 (Fort Stockton, Tex., to San Angelo, Tex.).

From the Fort Stockton, Tex., VOR via the INT of the Fort Stockton VOR 097° and the San Angelo VOR 237° radials; San Angelo, Tex., VOR, including a north alternate from the Fort Stockton VOR direct to the San Angelo VOR.

This amendment shall become effective 0001 e.s.t., May 7, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on March 5, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-2131; Filed, Mar. 12, 1959; 8:45 a.m.]

[Amdt. 8]

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

Alterations

The purpose of this action is to make minor alterations in control areas and a control zone in the area of the McGuire Air Force Base which are necessitated by the establishing of a military climb corridor for the McGuire Air Force Base at Wrightstown, New Jersey (Restricted Area, R-539). The entire action is necessary primarily to protect civil air traffic from the hazards created by hi-

performance type military aircraft operating in an area in which separation cannot be provided by any other means at the present time. This matter was proposed by the Air Force and coordinated with the civilian aviation organizations, the Army, and the Navy through the Air Coordinating Committee. Therefore, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. This action, however, is being made effective 30 days after publication in compliance with the Act.

Accordingly, Part 601 is amended as follows:

§ 601.203 [Amendment]

1. Section 601.203 is amended by changing the caption to read: "*Red civil airway No. 3 control areas (Philipsburg, Pa., to Harrisburg, Pa.)*."

2. Section 601.1112 is amended to read:

§ 601.1112 Control area extension (Fort Dix, N.J.).

The airspace bounded on the northwest by VOR civil airway No. 123, on the north by VOR civil airway No. 276, on the east by VOR civil airway No. 1, on the southeast by Green civil airway No. 5, on the south by Red civil airway No. 73 and on the west by Blue civil airway No. 20, excluding the portion which lies within the geographic limits of, and between the established altitudes of, the Lakehurst Caution Area (C-24) during its established time of use, and excluding the portion which lies within the geographic limits of, and between the designated altitudes of, the Fort Dix Restricted Area (R-25) during the restricted area's time of designation. The portions of this control area extension which lie within the Wrightstown, N.J., (McGuire AFB) Restricted Area/Military Climb Corridor (R-539) shall be used only after obtaining prior approval from the controlling agency.

3. Section 601.2269 is amended to read:

§ 601.2269 Fort Dix, N.J., control zone.

Within a 7-mile radius of the McGuire AFB and within 5 miles either side of the southwest course of the McGuire AFB RR extending from the RR to a point 10 miles southwest, excluding the portions which lie within the geographic limits of the Fort Dix Restricted Area (R-25) and the Lakehurst Caution Area (C-24) at all times and all altitudes. The portions of this control zone which lie within the Wrightstown, N.J., (McGuire AFB) Restricted Area/Military Climb Corridor (R-539) shall be used only after obtaining prior approval from the controlling agency.

§ 601.4203 [Amendment]

4. Section 601.4203 is amended by changing the caption to read: "*Red civil airway No. 3 (Philipsburg, Pa., to Harrisburg, Pa.)*."

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

This amendment shall become effective 0001 e.s.t. May 7, 1959.

Issued in Washington, D.C., on March 5, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-2159; Filed, Mar. 12, 1959; 8:48 a.m.]

[Amdt. 7]

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

Alterations

The Air Force has advised the FAA that it intends to conduct extensive jet training involving acrobatics, formation, and instrument flying in the Lubbock/Big Spring/Midland/Roswell area. These operations are expected to exceed 500 sorties per day. According to the Air Force, the operations are necessary to carry out its military mission. A study of the situation reveals that the intermingling of such large scale military operations with civil air traffic would present a serious hazard to air commerce. Consequently, a means must be provided to segregate the military and civil air traffic in the area.

Action is being taken to establish five restricted areas (R-552, R-553, R-554, R-555, and R-556) of various sizes to enable the Air Force to conduct jet training using aircraft operated from Webb AFB and Reese AFB. Four of the areas will have a floor of 12,000 feet and a ceiling of 26,000 feet MSL with the fifth area having a floor of 10,000 feet and a ceiling of 26,000 feet MSL. The action taken herein establishes control areas co-extensive with the restricted areas having the same floors as the restricted areas but having ceilings at 24,000 feet (the floor of the continental control area) instead of 26,000 feet MSL. The controlling agency for these restricted/control areas will be the FAA El Paso ARTC Center, which will make the areas available for use by the users in accordance with agreements made with the Air Force Bases. Normally, the restricted areas will be in use by the Air Force during daylight hours, Monday through Friday, when VFR weather conditions exist. When not in use by the military, the co-extensive control areas and the airways traversing the areas will be utilized by air traffic under the control of the FAA El Paso ARTC Center. There will be no concurrent use of the areas, however, by en route traffic, and the segregated military training operations. Other necessary action, such as the designation and redesignation of control areas is being taken herein.

This entire action is taken only after careful study and consideration of the various problems involved and proposals made by interested persons. In this connection, it should be noted that a Civil/Military team made an extensive study of the problems involved and the action taken herein is largely in accord with the team's recommendations. Never-

theless, the entire matter was also submitted to the processes of the Air Coordinating Committee where it was coordinated with and considered by the various civilian aviation organizations, the Army, the Navy, and the Air Force. It is believed that all interested and affected persons have been afforded an opportunity to comment and submit recommendations concerning this action. Under these circumstances, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. However, the effective date provision of section 4 is being complied with. Furthermore, in accordance with the requirements of CAR Amendment 60-14, adopted by the Civil Aeronautics Board on December 29, 1958, the designation of the floors of the control areas established herein higher than 700 feet above the surface will not become effective until 30 days after publication.

Accordingly, Part 601 is amended as follows:

1. Section 601.1456 is added to read:
§ 601.1456 Control area extension (El Paso, Tex.). (Webb/Reese areas).

The airspace above 12,000 feet MSL lying within the geographic limits of Reese (North) AFB Restricted Area (R-552), the Webb/Reese AFB Joint Restricted Area (R-554), the Reese (West) AFB Restricted Area (R-555), the Webb (West) AFB Restricted Area (R-556), and the airspace above 10,000 feet MSL lying within the geographic limits of the Webb (South) AFB Restricted Area (R-553), published in § 608.51.

2. Section 601.6060 is amended to read:
§ 601.6060 VOR civil airway No. 60 control areas (Albuquerque, N. Mex., to Lubbock, Tex.).

All of VOR civil airway No. 60 including south alternates.

3. Section 601.6062 is amended to read:
§ 601.6062 VOR civil airway No. 62 control areas (Prescott, Ariz., to Abilene, Tex.).

All of VOR civil airway No. 62 including a south alternate.

4. Section 601.6076 is amended to read:
§ 601.6076 VOR civil airway No. 76 control areas (Lubbock, Tex., to Galveston, Tex.).

All of VOR civil airway No. 76 including north alternates, but excluding the airspace between the main airway and its north alternate between the Lubbock, Tex., VOR and the Big Spring, Tex., VOR, and also excluding the airspace between the main airway and its north alternate between the San Angelo, Tex., VOR and the Austin, Tex., VOR.

5. Section 601.6079 is amended to read:
§ 601.6079 VOR civil airway No. 79 control areas (Fort Stockton, Tex., to Lubbock, Tex.).

All of VOR civil airway No. 79 including a west alternate, but excluding the airspace between the main airway and its west alternate between the Hobbs, Tex., VOR and the Lubbock, Tex., VOR.

6. Section 601.6102 is amended to read:
§ 601.6102 VOR civil airway No. 102 control areas (Roswell, N. Mex., to Wichita Falls, Tex.).

All of VOR civil airway No. 102 including a south alternate.

7. Section 601.6284 is amended to read:
§ 601.6284 VOR civil airway No. 284 control areas (Fort Stockton, Tex., to San Angelo, Tex.).

All of VOR civil airway No. 284 including a north alternate, but excluding the airspace between the main airway and its north alternate between the Fort Stockton, Tex., VOR and the San Angelo, Tex., VOR.

This amendment shall become effective 0001 e.s.t. May 7, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington D.C., on March 5, 1959.

E. R. QUESADA,
 Administrator.

[F.R. Doc. 59-2132; Filed, Mar. 12, 1959;
 8:45 a.m.]

[Amdt. 10]

PART 608—RESTRICTED AREAS

Alterations

This action establishes a climb corridor for Air Force F-102 aircraft on active air defense missions operating from McGuire Air Force Base, Wrightstown, New Jersey. The corridor extends from an altitude of 2,100 feet MSL to a height of 27,000 feet MSL over an area having a width of 2 statute miles at a point 5 miles southwest of the McGuire AFB extending to a width of 4.6 statute miles at a point 32 miles southwest of the base. It will be used continuously and permission to enter must be obtained from the controlling agency, which will be the McGuire AFB Approach Control. Concurrently, action is taken herein to lower the ceiling of Restricted Area R-26 from "unlimited" to 4,000 feet MSL in order to provide a holding area for Air Force aircraft using the corridor.

While this action relates to a military function, it is necessary primarily to protect civil air traffic from the hazards created by hi-performance type military aircraft operating in an area in which separation cannot be provided by any other means at the present time. This matter was proposed by the Air Force and coordinated with the civilian aviation organizations, the Army, and the Navy through the Air Coordinating Committee. Therefore, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. This action, however, is being made effective 30 days after publication in compliance with the Act.

Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.38, the Wrightstown, New Jersey (McGuire AFB) area/Military Climb Corridor (R-539) is added to read:

Charts. Washington and RF-34.

Description by geographical coordinates. The area, centered on the 226° True radial of the McGuire AFB terminal omnirange (latitude 40°00'32", longitude 74°35'50") beginning at a point 5 miles from the airport and extending to a point 32 miles southwest thereof and having a width of 2 miles at a point 5 miles southwest of the airport and expanding to a width of 4.6 miles at a point 32 miles southwest of the airport.

Designated altitudes. 2,100 feet MSL to 10,100 feet MSL from 5 miles southwest of the airport to 6 miles southwest of the airport. 2,100 feet MSL to 17,100 feet MSL from 6 miles to 8 miles southwest of the airport. 2,100 feet MSL to 23,100 feet MSL from 8 miles to 10 miles southwest of the airport. 6,100 feet MSL to 27,000 feet MSL from 10 miles to 15 miles southwest of the airport. 10,100 feet MSL to 27,000 feet MSL from 15 miles to 20 miles southwest of the airport. 15,100 feet MSL to 27,000 feet MSL from 20 miles to 25 miles southwest of the airport. 19,100 feet MSL to 27,000 feet MSL from 25 miles to 32 miles southwest of the airport.

Time of designation. Continuous.

Controlling agency. McGuire AFB Approach Control.

2. In § 608.38, the Warren Grove, New Jersey area (R-26) is amended by changing the "Designated Altitudes" to read: "Surface to 4,000 feet".

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307(a) and 307(c); 72 Stat. 749, 750 (Pub. Law 85-726))

This amendment shall become effective on May 7, 1959.

Issued in Washington, D.C. on March 5, 1959.

E. R. QUESADA,
 Administrator.

[F.R. Doc. 59-2160; Filed, Mar. 12, 1959;
 8:49 a.m.]

[Amdt. 9]

PART 608—RESTRICTED AREAS

Alterations

The Air Force has advised the FAA that it intends to conduct extensive jet training involving acrobatics, formation, and instrument flying in the Lubbock/Big Spring/Midland/Roswell area. These operations are expected to exceed 500 sorties per day. According to the Air Force, the operations are necessary to carry out its military mission. A study of the situation reveals that the intermingling of such large scale military operations with civil air traffic would present a serious hazard to air commerce. Consequently, a means must be provided to segregate the military and civil air traffic in the area.

This action establishes five restricted areas (R-552, R-553, R-554, R-555 and R-556) of various sizes wherein the Air Force may conduct its jet training, using aircraft operated from the Webb AFB and the Reese AFB. Four of the areas will have a floor of 12,000 feet and a ceiling of 26,000 feet MSL with the fifth

area having a floor of 10,000 feet and a ceiling of 26,000 feet MSL. In addition, control areas are being established co-extensive with the restricted areas having the same floor as the restrictive areas but having ceiling at 24,000 feet (the floor of the continental control area) instead of 26,000 feet MSL. The controlling agency for these restricted/control areas will be the FAA El Paso ARTC Center, which will make the areas available for use by the users in accordance with agreements made with the Air Force Bases. Normally, the restricted areas will be in use by the Air Force during daylight hours, Monday through Friday, when VFR weather conditions exist. When not in use by the military, the co-extensive control areas and the airways traversing the areas will be utilized by air traffic under the control of the El Paso ARTC Center. There will be no concurrent use of the areas, however, by en route traffic and the segregated military training operations. Other necessary action, such as the designation and redesignation of civil airways, control areas, and control zones is being taken.

This entire action is taken only after careful study and consideration of the various problems involved and proposals made by interested persons. In this connection, it should be noted that a Civil/Military team made an extensive study of the problems involved and the action taken herein is largely in accord with the team's recommendations. Nevertheless, the entire matter was also submitted to the processes of the Air Coordinating Committee where it was coordinated with and considered by the various civilian aviation organizations, the Army, the Navy, and the Air Force. It is believed that all interested and affected persons have been afforded an opportunity to comment and submit recommendations concerning this action. Under these circumstances, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. However, the effective date provisions of section 4 is being complied with and this action will become effective 30 days after publication in the FEDERAL REGISTER.

Accordingly, Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.51, the Reese (North) AFB, Lubbock, Texas, area (R-552) (Albuquerque and Roswell Charts) is added to read:

Description by geographical coordinates. Beginning at latitude 33°49'50", longitude 102°25'15"; to latitude 33°53'25", longitude 103°02'45"; to latitude 34°01'15", longitude 103°02'45"; thence counterclockwise via an arc the radius of which is 30 miles from Cannon AFB, to latitude 34°23'20", longitude 102°47'45"; to latitude 34°00'45", longitude 102°04'50"; thence counterclockwise via an arc the radius of which is 25 miles from the Lubbock, Texas, L/MF radio range to point of beginning.

Designated altitudes. 12,000 feet MSL—26,000 feet MSL.

Time of designation. Continuous.
Controlling Agency. FAA El Paso ARTC Center.

2. In § 608.51, the Webb (South) AFB, Big Spring, Texas, area (R-553) (El Paso and Austin Charts) is added to read:-

Description by geographical coordinates. Beginning at latitude 31°30'00", longitude 101°00'00"; to latitude 31°09'30", longitude 101°00'00"; to latitude 30°52'30", longitude 101°30'00"; to latitude 31°01'25", longitude 102°54'30"; to latitude 31°24'00", longitude 103°01'00"; to latitude 31°34'15", longitude 102°39'00"; to latitude 31°31'30", longitude 102°11'45"; to latitude 31°46'20", longitude 101°44'45"; to point of beginning.

Designated altitudes. 10,000 feet—26,000 feet MSL.

Time of designation. Continuous.
Controlling agency. FAA El Paso ARTC Center.

3. In § 608.51, the Webb/Reese AFB Joint, Texas, area (R-554) (Dallas Chart) is added to read:

Description by geographical coordinates. Beginning at latitude 32°31'15", longitude 100°28'00"; to latitude 32°28'40", longitude 101°12'40"; thence counterclockwise via an arc the radius of which is 15 nautical miles from the Big Spring, Texas VOR; to latitude 32°31'30", longitude 101°43'45"; to latitude 32°37'40", longitude 102°00'30"; to latitude 33°27'00", longitude 101°52'15"; to latitude 33°26'30", longitude 101°39'00"; to latitude 33°32'40", longitude 101°21'30"; to latitude 33°26'00", longitude 100°42'10"; to latitude 33°08'00", longitude 100°28'00"; to point of beginning.

Designated altitudes. 12,000 feet MSL—26,000 feet MSL.

Time of designation. Continuous.
Controlling agency. FAA El Paso ARTC Center.

4. In § 608.51, the Reese (West) AFB, Lubbock, Texas, area (R-555) (Roswell Chart) is added to read:

Description by geographical coordinates. Beginning at latitude 33°38'50", longitude 102°00'45"; to latitude 33°01'00", longitude 102°06'50"; to latitude 32°55'35", longitude 102°34'00"; to latitude 32°57'00", longitude 102°50'00"; to latitude 33°00'00", longitude 103°34'30"; to latitude 33°05'30", longitude 103°48'00"; to latitude 33°23'00", longitude 103°48'00"; to latitude 33°24'10", longitude 103°41'30"; to latitude 33°46'30", longitude 103°22'00"; to point of beginning.

Designated altitudes. 12,000 feet MSL—26,000 feet MSL.

Time of designation. Continuous.
Controlling agency. FAA El Paso ARTC Center.

5. In § 608.51, the Webb (West) AFB, Big Spring, Texas, area (R-556) (Roswell Chart) is added to read:

Description by geographical coordinates. Beginning at latitude 32°16'10", longitude 102°24'30"; to latitude 32°20'25", longitude 102°13'30"; to latitude 32°51'50", longitude 102°08'15"; to latitude 32°44'45", longitude 102°46'15"; to latitude 32°36'15", longitude 102°46'15"; to point of beginning.

Designated altitudes. 12,000 feet MSL—26,000 feet MSL.

Time of designation. Continuous.
Controlling agency. FAA El Paso ARTC Center.

This amendment is effective May 7, 1959.

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752, (Pub. Law 85-726). Interpret or apply sec. 307(a) and 307(c); 72 Stat. 749, 750 (Pub. Law 85-726).)

Issued in Washington, D.C., on March 5, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-2133; Filed, Mar. 12, 1959; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (23 F.R. 6439, 10181; 21 CFR 146e.405; 21 CFR, 1957 Supp.) are amended as set forth below.

1. In § 146e.221 *Tetracycline hydrochloride for intramuscular use* * * *, paragraph (c) (1) (iv) is amended to read as follows:

(c) *Labeling.* * * *
(1) * * *

(iv) The statement "Expiration date -----," the blank being filled in with the date that is 24 months (if it contains tetracycline phosphate complex) or 36 months (if it contains tetracycline hydrochloride) after the month during which the batch was certified, except that the blank may be filled in with the date that is 48 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section, and except that the blank is filled in with the date that is 12 months after the month during which the batch was certified if it contains one or more vitamin substances.

2. In § 146e.405 *Bacitracin with vasoconstrictor* * * *, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended by changing the words "24 months" to read "24 months or 36 months", and by deleting the last sentence in the subdivision. As amended, subparagraph (1) (iii) reads as follows:

(c) *Labeling.* * * *

(1) * * *

(iii) If it is a packaged combination of one immediate container of bacitracin and one immediate container of a vasoconstrictor, the statement "Expiration date -----," the blank being filled in with the date which is 18 months after the month during which the batch was certified. If it is the dry mixture of bacitracin with vasoconstrictor, the statement "Expiration date -----," the blank being filled in with the date which is 12 months after the month during which the batch was certified, except

that the blank may be filled in with the date that is 24 months or 36 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that such drug as prepared by him is stable for such period of time.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for these amendments.

Effective date. This order shall become effective on the date of publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: March 9, 1959.

[SEAL]

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 59-2151; Filed, Mar. 12, 1959; 8:47 a.m.]

PROPOSED RULE MAKING

POST OFFICE DEPARTMENT

[39 CFR Part 111]

INTERNATIONAL MAIL CHANGES IN ACCEPTANCE OF EIGHT-OUNCE MERCHANDISE PACKAGES

Notice of Proposed Rule Making

It is proposed to issue regulations discontinuing the acceptance of eight-ounce merchandise packages to the following countries:

Argentina.
Bolivia.
Brazil.
Costa Rica.
Dominican Republic.
Ecuador.
Republic of Honduras.
Mexico.
Nicaragua.
El Salvador.
Spain (including Balearic Islands, Canary Islands, and Spanish offices in Northern Africa).
Spanish Guinea.
Spanish West Africa.
Uruguay.
Venezuela.

The discontinuance affects only those countries which now accept both small packets and eight-ounce merchandise packages. Small packets will continue to be accepted to the above countries.

The proposed amendment relates to proprietary and foreign affairs functions of the Government and is therefore exempt from the rule making requirements of 5 U.S.C. 1003. However, consideration will be given to written views presented with respect to the proposed change. Patrons desiring to submit written views or comments may send the same to Mr. Greever P. Allan, International Service Division, Room 5435, Post Office Department Building, Washington 25, D.C., at any time prior to the expiration of 30 days from the date of publication of this document.

The proposed amendment is as follows:

In § 111.2 *Specific categories*, amend subparagraph (5) of paragraph (h) to read as follows:

(5) *Countries for which accepted.* Eight-ounce merchandise packages are accepted only in the following countries:

Canada	Haiti
Chile	Panama
Columbia	Paraguay
Cuba	Peru
Guatemala	

NOTE: The corresponding Postal Manual section is 221.285.

(R.S. 161, as amended, 396, as amended, 3868, sec. 1, 24 Stat. 355, 24 Stat. 569, as amended; 5 U.S.C. 22, 369)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-2164; Filed, Mar. 12, 1959; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 972, 1012]

[Docket Nos. AO-177-A19, AO-177-A18, AO-278-A2]

MILK IN TRI-STATE AND BLUEFIELD MARKETING AREAS

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

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 of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Tri-State and Bluefield marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk,

United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 5th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearings on the records of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, were conducted at Bluefield, West Virginia, on December 1 and 2, 1958, and at Gallipolis, Ohio, on December 3-5, 1958, pursuant to notices thereof which were issued November 10, 1958 (23 F.R. 8872).

The material issues on the records of the hearings relate to:

1. Marketing area.
2. Class I price.
 - (a) Annual level, supply-demand adjustment and seasonal adjustments.
 - (b) Price districts.
 - (c) Location adjustments.
3. Pass-back to supply plants of Class I utilization at fluid milk plants.
4. Payments to dairy farmers from whom handlers have discontinued receiving milk.
5. Provision for more than one accounting period within a month.
6. Equivalent price provision.
7. Conforming, clarifying and administrative changes.

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

1. *Marketing area.* The Tri-State marketing area should be expanded to include all the territory within the boundaries of Lawrence, Magoffin, Pike, Floyd, Johnson, and Martin counties, Kentucky; Magisterial Districts 2, 3 and 8, Lewis County, Kentucky; and Adams and Waterford townships, Washington County, Ohio.

Handlers proposed that the eight eastern Kentucky counties of Carter, Lawrence, Morgan, Magoffin, Pike, Floyd, Johnson, and Martin be included in the Huntington district of the Tri-State marketing area. A cooperative association representing the majority of producers delivering to Huntington district

plants supported the handlers' proposal. No opposing testimony was offered.

A joint Tri-State-Bluefield hearing was held in Bluefield, West Virginia, during the two days preceding the opening of the hearing at Gallipolis, Ohio, on which this recommended decision is based. Among the issues considered at that hearing was whether Pike, Floyd, Johnson, and Martin counties should be included as part of either the Tri-State or Bluefield marketing areas. The parts of the record of that hearing dealing with proposed regulation of these four counties were incorporated in this record by reference. The findings and conclusions herein on these four counties are thus based upon the evidence thereon in both records.

With respect to Pike, Floyd, Johnson, and Martin counties, Kentucky, proposals were made to include these counties as part of the marketing areas under either the Bluefield or Tri-State Federal orders or as the marketing area of a separate order. All handlers, but one, currently selling in these four counties are regulated under either the Bluefield or Tri-State orders. Handlers who have plants regulated under either the Bluefield or Tri-State orders, or under both, argued that the unregulated handler had a competitive advantage in that he could procure milk at opportunity prices, without regard to use classification and pricing as provided by Federal orders. Producer cooperatives representing Bluefield and Tri-State producers testified that the unregulated handler contributed to market instability.

The plant selling in this four-county area which is not regulated by either order is located at Paintsville in Johnson County. This plant receives the milk of 40 or more dairy farmers who are located in Johnson, Lawrence and Morgan counties, Kentucky. The plant also obtains supplemental milk from plants located outside the eastern Kentucky area. The dairy farmers who supply this plant are not members of any cooperative association, although some of them previously were members of a cooperative association principally engaged in supplying the Bluefield and Tri-State markets.

The milk procurement areas of at least one Tri-State handler and the unregulated plant overlap to some degree. The unregulated plant pays its dairy farmers a price which is usually competitive with the blend price paid by a Tri-State handler, and sometimes higher. This at times has caused some dairy farmers to leave the Tri-State market and ship to the unregulated plant. At other times, when the unregulated plant desired less milk from dairy farmers it paid a price less than the blend price paid by the Tri-State handler, and some dairy farmers supplying his plant have then shifted back to the Tri-State market.

Handlers regulated under either the Bluefield or Tri-State orders distribute from 85 to 90 percent of total Class I sales in Pike County, from 70 to 80 percent of such sales in Floyd County, from 40 to 50 percent in Johnson County, and approximately 90 percent in Martin

County. The remainder of the milk sales in these counties is made by the unregulated plant. Johnson is the only county of the four in which regulated handlers do not distribute the majority of total Class I sales. However, if either of the two orders were expanded only to include the three other proposed counties, the unregulated plant would become fully regulated because of the volume of its sales in these counties.

Approximately 90 percent of the total fluid sales from the unregulated plant at Paintsville are distributed in the four proposed counties. All other plants serving this area are fully regulated under the terms of a Federal order.

In the absence of regulation within this proposed four-county area the one unregulated plant has a cost advantage since it is not required to pay farmers on a class-utilization basis. The unregulated plant's sales constitute a substantial proportion of the sales in the proposed area and, accordingly, a situation of inequity exists between handlers presently regulated under the Bluefield and Tri-State orders as compared to the unregulated plant. Besides the consideration that there is an extensive overlapping of distribution routes of this unregulated plant with those of regulated handlers, there is also an overlapping of production areas and a shifting of dairy farmers between this plant and Tri-State order plants. If regulation were extended to the four-county area, all but a small proportion of the total sales of the now unregulated plant would be within regulated area. These considerations constitute a substantial basis for establishing milk order regulation in the proposed four-county area. The appropriate method of regulation depends upon further considerations including whether this area should be added to the Bluefield marketing area or Tri-State marketing area or regulated under a separate order.

One method of regulation which was proposed was to include the four counties as the marketing area of a separate order. This procedure is unnecessary to accomplish marketing stability if regulation under either the Tri-State or Bluefield orders is feasible. A separate order would regulate only the plant located at Paintsville. All other plants serving these four counties distribute a greater volume of their total Class I sales in either the present Bluefield or Tri-State marketing areas.

Three Bluefield handlers distribute milk in the proposed four-county area. One of these distributes in Pike County approximately 20 percent of his total Class I sales and has no Class I sales in the other three proposed counties, and another distributes in Pike, Floyd and Martin counties approximately 18 percent of his total Class I sales and has no sales in Johnson County. The third Bluefield handler has very minor sales in the proposed area. Four Tri-State handlers distribute milk on routes in the proposed counties. There was agreement among proponents from both markets that Tri-State order handlers distribute more milk in Floyd and Martin counties than do Bluefield handlers, and

that Tri-State handlers distribute all of the regulated milk in Johnson County. There was some disagreement among proponents as to whether in Pike County the greater part of the regulated milk was sold by Tri-State or Bluefield handlers. Information was presented by the market administrator for the Bluefield marketing area which showed that handlers under both orders have been distributing about the same amount of milk in Pike County and that the majority of sales in each of Floyd and Martin counties is by Tri-State handlers. This information was a summary of reports submitted to the administrators in the Tri-State and Bluefield markets by handlers operating in the proposed counties.

In view of the preponderance of sales in Martin and Floyd counties by Tri-State handlers, these counties should be regulated under the Tri-State order rather than the Bluefield order. Inasmuch as this would result in regulation of the plant at Paintsville which is now unregulated, the majority of sales in Pike County would then also be by Tri-State handlers. It is concluded that Pike County also should be regulated under the Tri-State order rather than the Bluefield order.

The inclusion of Pike, Martin and Floyd counties in the Tri-State marketing area will result in regulation under the Tri-State order of all handlers now selling in Johnson County. Johnson County also should be included in the Tri-State marketing area if regulation is extended to the other three counties so as to preserve the equity of cost of milk among any plants which may sell there. It is necessary that Federal order regulation apply to milk sold in all of the four counties of Martin, Floyd, Johnson, and Pike in order to assure orderly marketing conditions for both the Tri-State and Bluefield markets.

Tri-State handlers make approximately 60 percent of the total Class I sales in Magoffin County, Kentucky, and handlers regulated under the Appalachian order make approximately 10 percent of the total sales in that county. The remaining Class I sales in Magoffin County are by the unregulated handler whose plant is located at Paintsville, Kentucky. However, this handler will become fully regulated as a result of the expansion of the Tri-State marketing area to include Pike, Floyd, Johnson, and Martin counties and, thus, all Class I sales in Magoffin County will be by handlers regulated by Federal orders. Tri-State regulated handlers now distribute all the Class I products sold in Lawrence County. Unregulated handlers distribute milk in neighboring areas and constitute a threat to the stability of marketing conditions in these proposed counties. In order to preserve equitable pricing of milk between all handlers selling in Magoffin and Lawrence counties, these two counties should be included in the Tri-State marketing area.

Carter County, Kentucky, should not be included in the Tri-State marketing area. Handlers regulated under the Tri-State order distribute approximately 70 percent of the total fluid disposition

in this county. Two unregulated handlers distribute the remaining 30 percent. Regulated handlers testified that the unregulated handlers have an unfair cost advantage in the procurement of milk. Neither the unregulated handlers nor the dairy farmers who deliver to them were represented at the hearing.

At least one of these unregulated handlers competes for a substantial share of his total fluid sales with other unregulated handlers who do not distribute fluid milk in Carter County and who would not become regulated by any extension of the marketing area herein considered. Although the addition of this county to the Tri-State area would no doubt reduce the problem of competition for some regulated handlers, the same type of problem would be transferred to the newly regulated handlers. In view of this situation, the proposed extension of the marketing area to include Carter County is not practical, and is not adopted.

Information as to handler operations in Morgan County was not provided in the record. Accordingly, there is no basis for including this county in the marketing area.

Handlers proposed that Lewis County, Kentucky, and Adams County, Ohio, be included in the Gallipolis-Scioto district of the marketing area.

Two regulated handlers whose plants are located in the Gallipolis-Scioto district distribute approximately 80 percent of the total fluid sales made in Lewis County. This distribution is concentrated in the relatively heavily-populated northcentral and northeastern portions of the county along the Ohio River. Three unregulated handlers distribute the remaining 20 percent of total fluid sales, primarily in the western portion of the county. The unregulated handlers were not represented at the hearing.

If the marketing area were expanded to include Magisterial Districts 2, 3 and 3 of Lewis County, Kentucky, this would provide a clear division between the distribution areas in Lewis County of the regulated handlers and those of the unregulated handlers. Thus, any serious disadvantage and potential inequities to regulated handlers can be eliminated by including in the Tri-State area these portions of Lewis County which are supplied exclusively by regulated handlers. It is concluded that the order should be so amended.

Adams County, Ohio, should not be included in the marketing area. The same two handlers who proposed the inclusion of Lewis also distribute milk in Adams County in competition with four unregulated handlers.

The two regulated handlers testified that the unregulated handlers with whom they compete have an unfair advantage in the purchase of milk, and proposed the inclusion of Adams County in the Gallipolis-Scioto district to eliminate this advantage. An association responsible for the marketing of a substantial amount of the producer milk received by the proponent handlers supported the proposal. Three of the four unregulated handlers appeared in opposition to it.

One proponent handler distributes in Adams County approximately 10 percent

of his total fluid sales, and the other distributes less than 2 percent of his sales in the county. One of the unregulated handlers disposes of in Adams County approximately 34 percent of his total sales, another, about 24 percent, and a third, about 1 percent. Corresponding information on the other unregulated handler selling in Adams County was not available.

During October 1958, sales by the two Tri-State handlers accounted for approximately 30 percent of the total fluid sales in Adams County and the unregulated handlers accounted for the remainder.

Since Tri-State regulated handlers have the smaller share of the total fluid milk sales in Adams County, and since its inclusion would involve the regulation of handlers who have a substantial part of their sales there but the major portion of their business elsewhere, Adams County should not be included in the Gallipolis-Scioto district of the Tri-State area.

Handlers proposed that Adams and Waterford townships, Washington County, Ohio, and Malta and Morgan townships, Morgan County, Ohio, be included in the Athens district of the Tri-State marketing area.

Regulated handlers distribute all of the fluid milk sold in Adams and Waterford townships and approximately 85 percent of the fluid milk sold in Malta and Morgan townships. Two unregulated handlers distribute the remaining 15 percent of the total fluid milk sold in Malta and Morgan townships. Pursuant to the 1950 census, the combined population of Adams and Waterford townships was 3,864 and the combined population of Malta and Morgan townships was 3,112.

Since only regulated handlers distribute fluid milk in Adams and Waterford townships, no additional handlers will be regulated as a result of these two townships being included in the marketing area. Their inclusion will eliminate any potential inequity in milk procurement costs should handlers not now regulated and selling milk in nearby areas expand their distribution into these townships. Therefore, Adams and Waterford townships should be included in the Tri-State marketing area.

The fluid sales by each regulated handler selling in Malta and Morgan townships represent a small percentage of his total sales. If these two townships were included in the marketing area, two unregulated handlers who have their major distribution elsewhere would become regulated. Testimony does not show the distribution area of the unregulated handlers nor whether their major competition is with regulated or unregulated handlers. Accordingly, it is concluded that these townships should not be included in the marketing area.

2. *Class I price.* The annual average of the Class I price differentials should be maintained at about the present level. The amount of seasonal change in the Class I price should be reduced. An additional price district should be provided for certain counties in eastern Kentucky which would be added to the marketing

area, and additional basing points for location adjustments should be provided.

Producer associations proposed that the Class I price be increased by establishing higher differentials over the basic formula price. These differentials for the Huntington district would be \$1.40 per hundredweight for April through July and \$2.05 per hundredweight for August through March. The Class I differentials in the Gallipolis-Scioto district for the corresponding months would be 7½ cents lower and in the Athens district 15 cents lower. The producer associations based the request for such price increases on the competition of nearby markets for Tri-State producers. The proposed change in the seasonal range of prices was requested because the wide seasonal fluctuations under current order provisions are disturbing to producers, are not necessary in view of the improved seasonal production, and because a lower seasonal price change would result in better relationships with other markets.

The Class I price differentials in the order for the Huntington district are \$1.10 for April through July, \$1.55 for February, March and August, and \$2.00 for September through January. The average of these differentials is about \$1.59 for the year. In the Gallipolis-Scioto district the Class I differentials are 10 cents lower and in the Athens district 20 cents lower.

The proposal made by producers would result in average Class I differentials of \$1.83 for the Huntington district, \$1.755 for the Gallipolis-Scioto district, and \$1.68 for the Athens district. The increase in each district would be approximately 24 cents, 26 cents and 29 cents, respectively.

Handlers were opposed to any increase in the general level of the Class I price but did not oppose seasonal adjustments of the price.

An important consideration in determining the appropriate level of the Class I price for the Tri-State market is the price level in nearby Federal order markets. The Huntington district 1958 average Class I price, including the supply-demand adjustment, for milk of 3.5 percent butterfat content was \$4.76. For milk of the same butterfat content, the 1958 average Class I prices effective in nearby Federal order markets were as follows: Cincinnati—\$4.58, Columbus—\$4.36, and Bluefield—\$4.95. During certain months of 1958, Huntington district plants received milk from Louisville, Kentucky. During 1958, the average Class I price under the Louisville Federal order, for milk testing 3.5 percent butterfat, was \$4.36.

A handler testified that it cost him from 45 to 60 cents per hundredweight to move milk from Louisville to his plant in Huntington, a distance of 223 miles. During the year 1958, the Huntington average Class I price exceeded the Louisville average Class I price for milk testing 3.5 percent butterfat by 40 cents. During the months of September through December the Huntington district Class I price exceeded the Louisville Class I price by an average of 99 cents (in this connection official notice is taken of price

announcements published by the market administrators in these markets).

If the rate of location adjustment applicable under this order is used as a basis for estimating transportation cost, the cost of bringing milk from Columbus to Athens (75 miles) for Class I use would have been \$4.52 in 1958. The average Class I price at Athens, Ohio, in 1958 under this order was \$4.56. Similarly the average cost of Class I milk priced under the Cincinnati order brought to Huntington, West Virginia (151 miles) would have been \$4.87. The Huntington price under this order averaged \$4.76 in 1958.

If the Class I price were increased under this order as proposed the estimated differences in cost would be \$0.33 at Athens over the cost of Columbus milk and \$0.13 at Huntington over the cost of Cincinnati milk. In view of these relationships, and the fact that milk from other Federal order markets has been drawn upon instead of milk of supply plants which had been previously serving the market, the conditions in this market do not show that any fixed increase in the price level is necessary to assure an adequate supply.

The Class I price should continue to reflect the changes in production and sales. This is done through the supply-demand adjustment in the order, which adjusts the price depending on the percentage relationship of Class I sales by handlers to receipts of milk from producers. This adjustment serves to give producers an added price incentive when the supply is short in relation to market needs and to reduce the price when supply becomes more ample.

Handlers asked that the computation of the supply-demand adjustment include not only the receipts and utilization at distributing plants, as is currently the case, but also the receipts and utilization at any supply plants. In support of the proposal to include supply plants in this computation it was pointed out that shifting of producers from distributing plants to supply plants, which at times has occurred, could result in an upward price adjustment without any actual decrease in the supply of milk available to the market.

The supply-demand price adjustment was established in the order to provide price adjustments responsive to the changing relationship of milk supplies and milk sales. The adjustment computation was based upon only those plants in the business of distributing milk in the marketing area because of the erratic nature of much of the business of the other plants which serve the market only by shipments of milk to the distributing plants. At times such supply plants may have rather variable Class I sales outside this market. Also, part of the consideration of whether or not the milk at supply plants should be included in the supply-demand adjustment depends upon the way in which plants become qualified as supply plants under the definition of the order.

A plant is a supply plant during any month, in which it ships 25,000 pounds of milk to a fluid milk plant distributing in the marketing area, or if it ships skim

milk and butterfat from which 25,000 pounds or more of Class I milk is derived. Also, a plant which so qualifies as a supply plant for at least three of the months during the October-January period may retain supply plant status during the months of February through September next following without making further shipments.

The continuance in supply plant status during the months of February through September is voluntary with the operator of the plant. The benefit to the plant of keeping such status even in the absence of any actual shipments is that the plant in this manner qualifies for sharing during these months in the utilization at distributing plants to which it shipped milk during the prior months of October through January.

The order cannot require that a plant which was a supply plant in previous months be a regulated plant under the order in subsequent months when it does not perform the function of supplying the market. Because of this consideration, it is not practical to establish a schedule of normal utilization standards which would rely on data including milk receipts and utilization at supply plants. If such a schedule of standard utilization percentages were established in the order, the discontinuance of a plant to qualify as a supply plant, and the possible subsequent re-entry from time to time of such plant as a part of the supply organization, could have an erratic effect upon the supply-demand adjustment. At the time of the hearing there was only one plant which qualified as a supply plant. For these reasons it is concluded that supply plants should not be included in the supply-demand adjustment.

The amount of seasonal change in the Class I price should be reduced. The present seasonal changes in the Class I differentials amounting to 90 cents per hundredweight from the highest to the lowest, are more than are needed in view of the improved seasonal pattern of production.

The average daily production per producer during May and June 1956 was 155 percent of the production per producer in the preceding November and December; production per producer in May and June 1957 was 142 percent of production in the preceding November and December; and production per producer in May and June 1958 was 126 percent of production in the preceding November and December.

Reduction of the seasonal change in prices will also improve price relationships with surrounding markets which have level price plans.

The Class I price differentials should be increased 25 cents for the months of April through July, and reduced 20 cents in the months of September through January. These changes will result in the same average for a full year as the differentials presently in the order. Under the revised pattern, the Class I differentials in Athens district should be \$1.15 for April through July, \$1.35 for February, March and August, and \$1.60 for September through January. The differentials for the Gallipolis-

Scioto, Huntington, and Pikeville-Paintsville districts should be 10 cents, 20 cents, and 30 cents higher, respectively.

(b) *Price districts.* A new district to be known as the "Pikeville-Paintsville District" should be provided in the Tri-State order. This district will include the five Kentucky counties of Magoffin, Pike, Floyd, Martin, and Johnson. The Class I price to be paid by any plant defined as a Pikeville-Paintsville district plant shall be the Huntington district Class I price plus 10 cents.

The Tri-State order currently provides three districts for Class I pricing purposes. These are: the Athens district, which is the most northern of the three; the Gallipolis-Scioto district, which is the central district; and the Huntington district, which is the southern district. Plants defined as "Athens district plants" pay a Class I price based on differentials over the basic formula price. The annual average of the differentials is approximately \$1.39. The Gallipolis-Scioto district Class I differentials are 10 cents higher than for the Athens district, and those for the Huntington district are an additional 10 cents higher.

Handlers in the Huntington district proposed that the Class I price for the Athens district should be the same as for the Huntington district. They complained that the present 20 cents per hundredweight difference in price between the two districts gives an advantage to Athens handlers when they sell in the Huntington district.

One handler at Marietta, Ohio, in the Athens district is presently distributing on routes in the Huntington district. This handler testified that his sales in the Huntington district had been increasing in recent years. He also disposes of milk to a subdealer who distributes milk in some of the counties in eastern Kentucky which have been proposed to be added to the marketing area. Another handler with a plant in the Athens district also distributes milk in the Kentucky counties south of the Huntington district, and also has a distribution station in Logan, West Virginia. As has been pointed out previously in the findings and conclusions, some handlers in the Huntington district distribute milk as far south as points in Pike County, Kentucky. The distribution pattern as described for these handlers shows a tendency for milk to move southward from both the Huntington and the Athens districts. The counties in eastern Kentucky are deficit milk producing areas which depend for the most part on milk brought in from Tri-State handler plants. A large part of the sales in eastern Kentucky counties proposed to be added to the marketing area are also supplied by Bluefield order handlers. The Class I price under the Bluefield order during 1958 averaged \$4.95 for milk testing 3.5 percent, which was about 19 cents higher than the average of the Class I price under the Tri-State order for the Huntington district.

At plants in the Huntington district the percentage of reserve milk has continued to be less than at Athens district plants. In 1957 about 92 percent of pro-

ducer milk at Huntington district plants was used in Class I, and the corresponding figure for Athens district plants was 81 percent. Monthly utilization figures shown for 1958 show similar differences between the two districts.

The existing price pattern for the several districts in the Tri-State area and the Bluefield marketing area encourages a movement of milk from areas where the supply is more plentiful to areas where the supply is less plentiful. It is concluded that such a system of district pricing as is now employed under the Tri-State order should be continued so as to promote the economical utilization of milk supplies. Also, there should be an additional price district composed of the counties of Martin, Magoffin, Johnson, Floyd, and Pike, Kentucky. Within these five counties principal distribution points exist at Pikeville, Paintsville and Prestonsburg, and handlers operate routes into these counties from Williamson, West Virginia. The distance from Huntington to Paintsville is about 80 miles, to Pikeville about 114 miles, and to Williamson about 83 miles. It is concluded that a price for this new district to be called the Pikeville-Paintsville district should be 10 cents higher than the price at Huntington. This system of district pricing in the marketing area will carry out an extension of the existing pattern and is necessary to an adequate supply in the new district.

The order now provides that fluid milk plants located outside the marketing area shall be Huntington, Gallipolis-Scioto or Athens district plants dependent on within which of the three districts such plants dispose of on routes at least 50 percent of their total Class I sales. Conceivably, a fluid milk plant located outside the marketing area could dispose of all of its Class I sales on routes within the Tri-State marketing area but dispose of less than 50 percent of such sales in any of the four pricing districts herein provided. A fluid milk plant located outside the marketing area shall be considered a district plant for the district in which it disposes of more Class I milk on routes than in any other district. Prices at supply plants should be established according to the district in which located or, if outside the area, according to the price at the nearest place from which location adjustments are computed, adjusted for location.

(c) *Location adjustments.* Williamson, West Virginia, and Pikeville and Paintsville, Kentucky, should be added to the list of cities used as basing points in determining location differentials to handlers and producers.

Since this decision provides that the Tri-State marketing area be expanded, it is necessary that location adjustments to handlers and producers be reviewed and proper location adjustment provisions be developed to apply to plants selling in the additional area. The order provides handler and producer location adjustments at fluid milk plants and supply plants which are located outside the marketing area and 45 miles or more from the nearest of the city halls in Huntington, West Virginia; Ashland, Kentucky; and Portsmouth, Jackson,

Athens, Marietta, and Gallipolis, Ohio. The adjustments are 2 cents per hundredweight for each 10 miles or major fraction thereof up to 100 miles and 1.5 cents per hundredweight for each 10 miles or major fraction thereof in excess of 100 miles.

These adjustments were provided in recognition that milk delivered directly to a plant located within the marketing area is worth more by at least the cost of transportation than is other milk to be used in the market but delivered to a plant located at a considerable distance from the market. Therefore, to maintain this principle of equitable pricing throughout the newly-defined Tri-State marketing area it is necessary to include the three named cities as basing points from which location adjustments are computed.

The cities of Pikeville, Paintsville and Williamson are the major population centers in, or, in the case of Williamson, at the edge of, the newly-defined district. Williamson, in Mingo County, West Virginia, is separated from Pike County by the Tug River. A considerable volume of the fluid milk sold in the subject four-county areas is moved to distribution points in Williamson from plants presently regulated by Federal orders, and is disposed of from these points on retail or wholesale outlets throughout the area.

3. *"Pass-back" of Class I utilization to supply plants.* No change should be made in the application of the pass-back of Class I utilization from distributing plants to supply plants from which they received milk in previous months.

A proposal was made by producer associations that fluid milk plants which receive other source milk should be required to share their Class I utilization with supply plants which stand ready to furnish a like quantity of milk. Under this proposal a fluid milk plant would be required to allocate Class I utilization to supply plants to the same extent that other source milk was used in Class I even if the supply plant shipped no milk to the fluid milk plant during the month.

The basis on which plants achieve supply plant status has been discussed with respect to the proposals on the supply-demand adjustment. The milk transferred from supply plants to fluid milk plants may be classified according to mutual agreement between the plant operators as indicated in Section 972.34 (b), except that during the months of October through January such classification shall not result in more than 10 percent of the milk received at the fluid milk plant directly from producers being assigned to Class II and Class III. If a plant were a supply plant during three of the months of October through January, it may at its own election maintain supply plant status through the following September and thus be eligible without further shipments for sharing during the months of February through September in the Class I utilization of the fluid milk plants to which it has shipped. This is covered in the so-called "pass-back" provision under § 972.34(c). The order does not require the fluid milk plant to passback Class I utilization to the supply plant. The amount of the pass-back

thus depends upon the agreement between the plant operators and the limits set forth in § 972.34(c) (1), (2) and (3).

The pass-back provision serves the purpose of allowing supply plants to participate in the market utilization on a year around basis essentially to the degree that the market depends on such plants during the months of shortest milk supply. This is an appropriate allocation of returns for milk sold in the marketing area within the basic purpose of maintaining an adequate and reliable supply.

Under the order regulation the use of other source milk by fluid milk plants is limited largely to use of milk from other Federal order markets except insofar as milk may be obtained from unregulated shipping plants which do not ship as much as the 25,000-pound limit specified in the supply plant definition. Handlers in this market have received during the past year milk from plants regulated under other Federal orders. Normally, such milk from other Federal order markets would represent a utilization of milk from producers, as defined under such other order, accounted for and paid for according to use by the handler in such market.

Under the provisions of the Agricultural Marketing Agreement Act, handlers are free to seek a source of supply wherever qualified milk is available and are not confined to any specified group of producers or particular plants. If, as under the producer proposal, fluid milk plants were required to pay supply plants whether or not they had received milk from such supply plants, this would greatly limit the freedom of operations of fluid milk plants to obtain milk from whatever sources they may choose. Another effect of the producer proposal would be a kind of market-wide pooling of all handlers' utilization for the benefit of supply plants without, however, any pooling of utilization among fluid milk distributing plants. If there is a need in this market for a market-wide pool including supply plants on a reserve basis, this need and order provisions for implementing such a pooling operation were not developed on the record.

It is questionable whether any kind of compulsory provision for pass-back of utilization to supply plants in months in which they do not ship to the market would result in any greater returns to producers at supply plants than is now the case. It may be expected that operators of fluid milk plants would be willing to give as much pass-back under the present voluntary arrangement as they would under a required pass-back. Included in the considerations which might affect the possible gain to supply plants under the required pass-back are the questions of whether handlers would continue to obtain milk from plants which have served as supply plants and the amount of handling charges which may be obtained by supply plants.

It is concluded that any form of requirement of pass-back of utilization to supply plants would not be in the interest of assuring an adequate supply for the market at prices representing supply and

demand conditions nor is it needed to assure orderly marketing conditions.

4. *Payments to dairy farmers from whom handlers have discontinued receiving milk.* No requirement should be provided in the order that handlers make payments to dairy farmers from whom they have discontinued receiving milk and who the handlers are not carrying on their payroll as diverted producers.

A proposal was made by a producer association that when a handler changes his milk-receiving operations from can to bulk tank receipts he should be required to retain can-shipping producers on his payroll until the following first day of August. This proposal was made because during the past year the decision on the part of several handlers to discontinue receiving milk in cans has required a number of farmers who continue to deliver their milk in cans to shift their deliveries to other handlers or find other markets. Under the producer proposal, a handler would be required to pay such can shippers the difference between the handler's uniform price and the price received by the farmer at a manufacturing plant.

Such changes as have been made in handler receiving methods during the past year have not resulted in a substantial loss of milk supply to the market. To a large extent the can-shipping farmers have shifted to other plants serving the market. The testimony of proponents did not show that the proposed requirement upon handlers is needed to assure an adequate supply of milk nor does any of the evidence in the record so indicate. As presented, the proposal would require handlers to pay out not only the total use value of the milk they handle to the producers from whom they receive milk but also to pay additional sums of money to the dissociated can-shipping farmers. This would be inconsistent with the requirement of the Agricultural Marketing Agreement Act that handlers pay according to the use value of the milk they receive from producers. Even if the proposal were modified so that the use value of the milk received by the handler was prorated among the farmers from whom he receives milk and the dissociated can shippers, the need for such a proration to assure an adequate and regular supply of milk for the market was not shown.

5. *Provisions for more than one accounting period within a month.* Handlers should be allowed to use accounting periods of less than a month after proper notification to the market administrator.

Handlers requested that accounting periods of less than a month be permitted. The purpose of this proposal was to allow allocation of milk from non-producer sources to Class I when producer milk becomes short within periods of less than a month. If handlers were allowed to use accounting periods of less than a month, producer milk could then be allocated according to its availability within such accounting period.

Under present monthly accounting, if a handler's receipts of producer milk are adequate at the beginning of a month but near the end of the month are less

than Class I sales, then the excess of producer milk at the beginning of the month would be at least partially allocated to Class I sales in the latter part of the month.

The monthly accounting system has become the usual standard under Federal milk order regulation and is generally accepted as the most practical method of applying the provisions of the Act which requires milk to be classified "in accordance with the form in which or the purpose for which it is used * * *". There are administrative limitations involved in accounting for specific "lots" of milk according to physical disposition; and allocation provisions such as those provided in the order are necessary to distinguish producer milk and other source milk for classification purposes. This distinction eliminates the impossible administrative task of ascertaining the particular use of each hundredweight of milk from each source and makes possible a practical accounting system. The extent to which producer milk may be given priority allocation of higher-valued uses has been established as the prerogative of the Secretary in formulating provisions which will provide reasonable protection against substitution of unregulated milk for producer milk and thus promote orderly marketing. In any event, the handler is not compelled to pay producers for any greater utilization of milk than he actually uses in the particular class.

During 1958, Class I sales as a percent of producer receipts ranged from a high of about 104 percent in December to a low of approximately 74 percent in June. Total Class I sales during this period were approximately 88 percent of total producer receipts. (Official notice is taken of data published by the market administrator relative to receipts and sales for November and December 1958). In view of the relatively narrow margin which exists in some months between production and sales, the probability of shortages of producer milk during periods of less than a month is more likely than in markets with larger reserves. The additional flexibility in procurement, which would be allowed to handlers under this proposal, could be of benefit in assuring an adequate supply for the market at all times.

It is not likely all handlers in the market will exercise, at the same time, the use of accounting periods of less than a month. This consideration bears in the cost of administering the order and the sharing of the burden of the cost among handlers. While the net obligation of handlers will continue to be computed on a monthly basis, the division of a month into more than one accounting period requires proof of receipts, sales, inventories, and shrinkage for each period. It is apparent that the administrative costs involved in verifying handlers' reports and dealing with the additional administrative problems would be increased, and that these increased costs would be directly associated with operations of the handler who elected the shorter accounting period. For these reasons there would not be an equitable sharing of the administrative costs among handlers un-

less the additional expenses involved were placed upon the handler responsible. There is not now any experience in this market by which to measure precisely how much additional expense would be incurred. It is possible that the administrative costs in verifying a handler's operations for a shorter accounting period would be about the same as for a monthly period. Accordingly, handlers electing to use more than one accounting period within a month should pay for administrative expenses at a rate calculated by multiplying the monthly rate by the number of accounting periods in the month. It is provided in the attached proposed amendment, however, that the amount could be reduced if actual cost proves to be less than the specified rate.

In order to facilitate the administration of the order, each handler who elects to use more than one accounting period within a month should, before the end of each accounting period, notify the market administrator of his election of the shorter accounting period.

6. *Equivalent price provision.* From time to time, price quotations specified in the order as factors in establishing order prices may become unavailable. This may happen without notice and at a time when it is not possible to remedy the matter by amendment action. The order should provide that when a price quotation specified in the order is not available, the Secretary may determine an equivalent price to be used.

The emergency price provision (§ 972.45) of the order is obsolete and should be deleted.

7. *Conforming, clarifying and administrative changes.* The order should contain specific language that nonfat solids used during the month be accounted for at the weight of skim milk used to produce such solids, including all the water originally associated with such solids.

In some areas to be added to the marketing area, plants regulated under another order have regular outlets for Class I disposition. There is no apparent need for changing the effective regulation for such plants. Generally, it will be most appropriate to regulate each plant under the order regulating the marketing area where the plant distributes more milk than it does in any other federally regulated marketing area. In case there may need to be exceptions to such a rule, the order should also provide that the Secretary may determine in each instance whether this rule should apply or a different determination should be made.

Other changes in order provisions intended to improve the clarity and specificity of the language and to facilitate administration thereof, are deferred for another decision on this record. These changes include definitions, accounting for inventory, consolidation of provisions in briefer form where possible, elimination of obsolete provisions, and such other changes in order language as will tend to clarify or make more specific certain provisions without extending the effect of the regulation. Also, with respect to definition of "fluid milk plant" and "supply plant" there is reserved for a further decision the question of

PROPOSED RULE MAKING

whether such definitions should include facilities within the same building not qualified for handling milk for fluid consumption, and if such changes are made in plant definition, what conforming change is needed in the producer definition or other provisions. Consideration may be given also as to different allocation of milk from plants regulated under other orders.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the records 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 regulating the handling of milk in the Tri-State 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. Delete § 972.5 and substitute the following:

§ 972.5 Tri-State marketing area.

"Tri-State marketing area" (hereinafter called the marketing area) means all that territory in the States of Ohio, West Virginia, and Kentucky, lying within the districts described in paragraphs (a), (b), (c) and (d) of this section, including all incorporated municipalities, military reservations, facilities, and installation, and State institutions wholly or partially within the defined districts.

(a) "Pikeville-Paintsville district" of the marketing area means the territory within the counties of Martin, Magoffin, Floyd, Johnson, and Pike, all in Kentucky.

(b) "Huntington district" of the marketing area means the territory within the counties of Boyd, Greenup, and Lawrence, in Kentucky; Lawrence County in Ohio; and the counties of Cabell and Wayne, in West Virginia.

(c) "Gallipolis-Scioto district" of the marketing area means the territory within the counties of Gallia, Meigs, Scioto, and Jackson, in Ohio; the townships of Beaver, Camp Creek, Jackson, Marion, Newton, Pee Pee, Scioto, Seal, and Union in Pike County, Ohio; Mason County in West Virginia; and Magisterial Districts 2, 3 and 8 in Lewis County, Kentucky.

(d) "Athens district" of the marketing area means the territory within Athens County, Ohio; the townships of Belpre, Marietta, Muskingum, Adams, and Waterford, in Washington County, Ohio; and Lubeck, Parkersburg, Tygart, and Williams Magisterial Districts in Wood County, West Virginia.

2. Delete §§ 972.9, 972.10, and 972.11 and substitute the following:

§ 972.9 District designation of plants in marketing area.

A fluid milk plant in the marketing area is a "Pikeville-Paintsville district plant", a "Huntington district plant", a "Gallipolis-Scioto district plant" or an "Athens district plant" depending on whether it is located in the Pikeville-Paintsville district, the Huntington district, the Gallipolis-Scioto district, or the Athens district, respectively.

§ 972.10 District designation of fluid milk plants outside the marketing area.

A fluid milk plant located outside the marketing area is a district plant for the district in which it disposes of more Class I milk on routes than in any other district.

§ 972.11 District designation of supply plants.

A supply plant located in the marketing area is a district plant for the district in which it is located, and a supply plant located outside the marketing area is a district plant for the district in which the nearest place listed pursuant to § 972.48 is located, or is adjacent to.

3a. In § 972.25 delete the language preceding paragraph (a) and substitute the following:

§ 972.25 Reports of receipts and utilization.

On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for each of the plants with respect to which he is a handler for such month, and for each accounting period within the month, in the detail and on the forms prescribed by the market administrator as follows:

b. In § 972.25 insert a new paragraph (d) as follows:

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

4. Delete § 972.35 and substitute the following:

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

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 972.25 and compute the total pounds of skim milk and butterfat respectively, in Class I milk, Class II milk, and Class III milk at all of the plants of such handler: *Provided*, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

5. Insert a new § 972.37 as follows:

§ 972.37 Accounting periods.

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

§ 972.41 [Amendment]

6. In § 972.41 delete paragraph (a) and substitute the following:

(a) Add the following amounts for the months indicated:

	February, March, and August	April, May, June, and July	September, October, November, and January
Pikeville-Paintsville district plants.....	\$1.65	\$1.45	\$1.90
Huntington district plants.....	1.55	1.35	1.80
Gallipolis-Scioto district plants.....	1.45	1.25	1.70
Athens district plants.....	1.35	1.15	1.60

7. Delete § 972.45 and substitute the following:

§ 972.45 Use of equivalent prices.

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

determined by the Secretary to be equivalent to the price which is required.

§ 972.48 [Amendment]

8. In § 972.48 add to the list of places the following:

City Hall, Pikeville, Kentucky.
City Hall, Paintsville, Kentucky.
City Hall, Williamson, West Virginia.

9. Delete § 972.51 and substitute the following:

§ 972.51 Plants subject to other orders.

A plant which during the month disposes of less Class I milk on routes in the marketing area under this part than in a marketing area where the handling of milk is regulated under another Federal milk order and which would be subject to the price and pooling requirements pursuant to the other order if not subject to the price and pooling requirements pursuant to this part, shall be a nonfluid milk plant unless the Secretary determines it to be a fluid milk plant or supply plant pursuant to this part. Any such nonfluid milk plant shall submit such reports as the market administrator may request with respect to milk received, and utilization and disposal thereof.

§ 972.71 [Amendment]

10. In § 972.71 change the period at the end of the section to a colon and add the following proviso: "And provided further, That if a handler uses more than one accounting period within a month, the rate of payment with respect to the quantities of milk specified in this section shall be the monthly rate multiplied by the number of accounting periods within the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods."

Issued at Washington, D.C., this 10th day of March 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-2156; Filed, Mar. 12, 1959;
8:48 a.m.]

[7 CFR Part 1005]

[Docket No. AO-272-A1]

MILK IN NORTH CENTRAL IOWA
MARKETING AREA

Notice of Hearing on Proposed
Amendments to Tentative 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 a public hearing to be held at the Black Hawk County Courthouse, Waterloo, Iowa, beginning at 10:00 a.m., on April 9, 1959, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating

the handling of milk in the North Central Iowa marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposal relative to a redefinition of the marketing area raises the issue whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Cedar Valley Cooperative Milk Marketing Association, Des Moines Cooperative Dairy, Humboldt Cooperative Creamery Association, and North Iowa Cooperative Milk Marketing Association:

Proposal No. 1. Delete § 1005.6 and substitute therefor the following:

§ 1005.6 North Central Iowa marketing area.

"North Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the boundaries of the City of Osage and the counties of Benton, Blackhawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Kossuth, Marshall, Tama, Webster, Winnebago, Worth and Wright, all in the State of Iowa, including territory within such boundaries which is occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other establishments.

Proposal No. 2. Add the following paragraph to § 1005.10:

§ 1005.10 [Amendment]

(c) A cooperative association with respect to Grade A milk received from dairy farmers at their farms in a tank truck owned or operated by such cooperative association and delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed to have been received by the cooperative association at the location of the pool plant to which it is delivered by the tank truck and such location shall be deemed to be the location of such cooperative association in its capacity as the operator of a supply plant.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 411 Marsh-Place Building, 627 Sycamore Street, Waterloo, Iowa, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture,

Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 10th day of March 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-2156; Filed, Mar. 12, 1959;
8:48 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

PAPER AND PULP INDUSTRY

Tentative Decision in Redetermination
of Prevailing Minimum Wages

A complete record of proceedings held under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 45(a)) to determine the prevailing minimum wages for persons employed in the paper and pulp industry has been certified by the hearing examiner. A tentative decision, including a statement of findings and conclusions, as well as the reasons and basis therefor, on all material issues of fact, law, and discretion presented on the record, and any proposed wage determination is now appropriate under the Rules of Practice, 41 CFR 203.21(b), and the Administrative Procedure Act (5 U.S.C. 1007(b)).

Definition. The notice of hearing defined the paper and pulp industry as that industry which manufactures or furnishes pulp from wood or from other materials such as rags, linters, waste paper, and straw; paper from wood pulp and other fibers; paper board from wood pulp and other fibers; building paper and building board, except gypsum products; coated bookpaper; and sanitary paper such as facial tissues, toilet paper, paper napkins, and paper towels. The paper and pulp industry does not include the manufacture or furnishing of paper boxes and containers; paper bags; fiber cans, tubes, and drums; stationery and envelopes; and related products.

This definition is the same as the one currently in effect for this industry, except it excludes paper bags and shipping sacks, for which the existing, separate rate is continued. The express mention of the other excluded products effects no change; it is merely intended to clarify by making explicit certain limitations which have been regarded as implicit in the present definition.

Both the labor and management participants in this proceeding have endorsed the definition proposed in the notice. In content, it is identical with the definition which is currently in effect for a branch of the industry. It has proved satisfactory in experience. It will be retained in this tentative decision.

Acting on behalf of several of its members who manufacture paper from wood pulp to which cotton fibers have been added, the Writing Paper Manufacturers Association urges that a separate determination be made for this product, which is called rag content paper. It is made by only approximately 30 companies, who

employ approximately 4,500 covered workers—that is to say, workers who would have the protection of any minimum wage to be determined when engaged on the Government contract work to which it applies. Rag content paper is said to be distinctive in that it requires more labor to make, requires different techniques of manufacture, is of a higher grade, and sells for a higher price.

The tons of rag content paper produced annually and the number of mills producing it are both less than they were thirty years ago. Though the Government buys a higher portion of the total rag content paper production than it buys of the production of the remainder of the industry, it buys only a small portion of the total production of either type, and both the tonnage and dollar value of its purchases of paper without rag content are much larger than its purchases of paper with rag contents. Both in terms of the production of the industry as defined and Government purchases, therefore, rag content paper is a very small portion of the total.

Though minimum wages in the plants manufacturing rag content paper are said to range from \$1.42 to \$1.52 with a median of about \$1.46–\$1.47—somewhat lower than the industry plant minimum wage median, it is not established that the lower minimum wage occurs by reason of the product difference. Because this portion of the industry has not shared the growth of the market for paper, its mills are older. Their minimum wages do not vary substantially from those paid in mills of similar age making paper without rag content in the same labor commuting areas. Employees in the lowest labor grade in the mills whose product has no rag content generally do the same sort of work as do those in the rag content mills. They receive the same pay in mills which produce both types of paper. More than half the product of the 30 companies making some rag content paper is of the type which has no rag content. The two types of paper are used interchangeably for the same purpose in both the commercial and Government market. They are classified together as related products in the same industry both by the Department of Commerce and the Budget Bureau. For these several reasons, this tentative determination will be for the industry as defined in the notice, without any separate provision for rag content paper.

Locality. Both employer and employee representatives agreed that any determination made should be industry-wide. Government exhibits 4 and 9 show affirmatively that the competitive bidding for Government contracts to supply paper is not limited by the delivery points specified in the invitations. Such competition extends throughout the industry. It is impossible to predict even the general region where any particular contract materials will be manufactured when bids are invited. For these reasons I find that the locality in which products of the paper and pulp industry are to be manufactured or furnished under Government contracts extends to all of that area in which the industry has

its plants, and that geographic differentials cannot be adopted for this industry without defeating the purpose of the Act. Accordingly, under the decision in *Mitchell v. Covington Mills*, 229 F. (2d) 506 (CADC), certiorari denied, 350 U.S. 1002, rehearing denied, 351 U.S. 934, I find that it is appropriate here to make a single determination applicable to the entire industry.

Wages. The representatives of employers mention minimum wages of \$1.18, \$1.23, \$1.25, and \$1.45 as having some support in the evidence, and recommended \$1.25. They also request a provision permitting the employment of "beginners" at 10 cents per hour less than the prevailing minimum wage. The employee representatives propose a determination that \$1.65 is the prevailing minimum wage, without provision of a lower rate for beginners, except that District 50 of the United Mine Workers recommends continuance of the 5 cent tolerance now in effect.

The wage survey presents data on minimum wages separately for beginners, non-beginners, and all covered workers so there will be an appropriate evidentiary base for making either one determination for all covered workers or one for beginners and a separate one for non-beginners. It thus becomes necessary first to decide whether to provide a separate rate for beginners in order to identify the pertinent wage data.

A lower rate for beginners generally permits a higher wage to be determined for experienced employees by eliminating the low wages paid beginners from the base on which the prevailing minimum wage for others is determined. This is consistent with the statutory prevailing minimum wage standard only when its total effect assures a more meaningful determination. It would not have that effect in this industry, because such a preponderant majority of plants presently pay the same wage to the new and experienced workers in the lowest wage labor grade.

The employer representatives recommended \$1.25 with a subminimum of 10 cents less for beginners, because Table 4, which excludes beginners, shows that 10 percent of the establishments in the industry paid minimum wages of \$1.25 per hour or lower. But this criterion is also satisfied at the \$1.25 rate on Table 6, which is identical except that it includes beginners. Again, applying bench marks more frequently used in these determinations, we find from the table which excludes beginners that a majority of the plants pay no non-beginners less than \$1.61 and a majority of the covered workers are employed in plants paying none of them less than \$1.67. The comparable figures from the table which includes beginners are \$1.58 and \$1.64—just 3 cents difference at each point. It is plain from these comparisons that a 5 or 10 cent differential for learners, such as has been suggested, would result in a determination which would not measure up to the prevailing minimum wage standard. This tentative determination, therefore, will be based on the data which includes beginners with other covered workers in reporting the minimum wages

actually paid, and will provide no separate rate for beginners.

The importance the employer representatives attach to the fact that 10 percent of the establishments in the industry pay the minimum wage they recommended or a lower one rests on their view that the prevailing minimum wage is "the base on which the wage structure builds up". They point out that the "concept of 'prevailing minimum' under the Walsh-Healey Public Contracts Act cannot be construed to be the mid-point of the range of all wages or the median wage for any industry."

These arguments would have force if the tabulation to which they relate were a distribution of all of the wages in the industry. Any approach to a median on such a table would ignore the word "minimum" in the phrase "prevailing minimum wage," and, in the absence of more specifically relevant data, significant clusters of wages in the lower portion of such a distribution of all wages have been regarded as identifying a base on which the wage structure of the industry may be said to build up and a figure which may have some claim to recognition as the prevailing minimum wage. Table 2 in the wage survey is such a distribution table. Applying these criteria to it, it is apparent that the median rate of \$1.90 which it discloses is too high to be considered the prevailing "minimum" wage here. The "10 percent base" approach falls in a more appropriate area, and points to a prevailing minimum wage of \$1.62.

Development of plant minimum wage tables has furnished a directly probative basis for more accurate and appropriate determination of prevailing minimum wages than the at best inferential basis supplied in a distribution by all wage levels such as in Table 2. The entities in a particular industry having a minimum wage, obviously are the several factories, plants, or establishments each of which employs the several skills needed to convert one or more of the raw materials of the industry into one or more of its products. Tables 4 and 6 of the wage survey here are such minimum wage tables. From bottom to top, the only wages presented on them are plant minimum wages. A "prevailing minimum wage" may be found from such minimum wage tables in precisely the same manner as a "prevailing wage" may be found on one like Table 2.

Turning to Tables 4 and 6 to accord to the requirement of "minimum" in the statutory standard and referring to Table 6 in view of the decision to determine a prevailing minimum wage for application to all covered workers in the industry, including beginners, the problem emerges of finding which of the several minimum wages listed there may be said to prevail. It appears that no single minimum wage is paid by any very substantial portion of the industry so as to clearly emerge as "prevailing" in its own right. It is therefore necessary to choose from among the range of establishment minimum wages represented in Table 6 that minimum wage which is most representative of the minimum wage practices of the industry as a whole, and the one most accurately

reflecting the industry standard which I am directed to find and determine as the prevailing minimum wage for persons employed in the industry. As higher minimum wages and the majority of covered employment distinguish the plants in the top half of the industry from those in the remainder, the lowest minimum wage paid in this half fulfills these requirements.

The specific identification of this particular wage is dependent on whether each of the several plants in the industry is regarded as equal. If this approach is used, a minimum wage of \$1.58 per hour is indicated since 50.8 percent of all plants pay none of their covered employees less than such rate as a minimum wage. If the plants in the industry are weighted in accordance with their employment, a minimum wage of \$1.64 per hour is reflected in that 52 percent of the covered employees in the industry are employed in plants paying no such employee a lesser minimum wage.

The recommendation of the unions affiliated with the American Federation of Labor and Congress of Industrial Organizations as to the minimum wage prevalent at the time of the wage survey falls fairly within this limited area between both rates. It is \$1.60 per hour. More than 58 percent of the covered workers in the industry are employed in more than 47 percent of its establishments, which pay no covered worker less than \$1.60 per hour. This rate also corresponds closely to the one suggested by the statistical approach recommended by the employer representatives when that approach is related to the table in the wage survey to which it is truly pertinent. Upon the basis of the entire record before me, therefore, this tentative decision finds and determines that \$1.60 per hour is the minimum wage prevailing in this industry as of the date of the wage survey.

At the hearing there was testimony suggesting a general pattern of wage increases which had occurred since the date of the wage survey of five cents per hour in the northern mills, four in the south, five in the midwest, and nothing on the Pacific Coast because the bargaining in that area had not progressed to the point where a pattern had emerged. Consideration was given to a possible stipulation to that effect, but it was decided that, in lieu thereof, data would be submitted by representatives of employees and checked by representatives of employers giving exact wage increases on a plant by plant basis. These submissions and corrections have been received. Giving effect to both, and adjusting Table 6 in the wage survey to reflect each wage change in the critical area, shows the rate of \$1.63 to now occupy substantially the same representative position occupied by the rate of \$1.60 developed in the above analysis. On the basis of this evidence, I find that the prevailing minimum wage in this industry has increased 3 cents since the date of the wage survey, and is now \$1.63.

Accordingly, upon the findings and conclusions stated herein, pursuant to

authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. sec. 35 et seq.), and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 1001), notice is hereby given that I propose to amend 41 CFR 202.33 as follows:

1. The title and paragraphs (a) through (e) of § 202.33 are amended to read as follows:

§ 202.33 Paper bag and paper shipping sack industry.

(a) *Definition.* The paper bag and paper shipping sack industry is that industry which manufactures or furnishes paper bags and paper shipping sacks.

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture of products of the paper bag and paper shipping sack industry under contracts subject to the Walsh-Healey Public Contracts Act shall be \$1.00 an hour arrived at either on a time or piece-rate basis.

(c) *Tolerances.* Learners and apprentices may be employed in the paper bag and paper shipping sack industry at wages less than \$1.00 an hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

(d) *Effect on other obligations.* Nothing in this section shall affect any obligations under any other law or agreement for the payment of minimum wages higher than those specified herein.

(e) *Effective date.* This section shall be effective, and the minimum wage therein established shall apply, as to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on or after October 7, 1956.

2. A new section is added to Part 202 of Title 41 of the Code of Federal Regulations to read as follows:

§ 202.61 Paper and pulp industry.

(a) *Definition.* The paper and pulp industry is that industry which manufactures or furnishes pulp from wood or from other materials such as rags, linters, waste paper, and straw; paper from wood pulp and other fibers; paper board from wood pulp and other fibers; building paper and building board, except gypsum products; coated book-paper; and sanitary paper such as facial tissues, toilet paper, paper napkins, and paper towels. The paper and pulp industry does not include the manufacture or furnishing of paper boxes and containers; paper bags; fiber cans, tubes,

and drums; stationery and envelopes; and related products.

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the paper and pulp industry under contracts subject to the Walsh-Healey Public Contracts Act shall be \$1.63 an hour arrived at either on a time or piece-rate basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any obligations under any other law or agreement for the payment of minimum wages higher than those specified herein.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, interested persons may submit exceptions to the tentative decision above set out together with supporting reasons for such exceptions. Exceptions should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 6th day of March 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-2165; Filed, Mar. 12, 1959;
8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 193]

[Ex Parte No. MC-40]

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Brakes; Extension of Time for Filing Statements

In the matter of further extending time for filing statements in response to the proposal to amend §§ 193.42(c) and 193.48 relating to brakes required on all wheels and brakes to be operative.

Upon consideration of the record in the above-entitled proceeding and request of the Bureau of Motor Carriers for a further extension of time within which to file statements in response to the notice of proposed rule making dated September 5, 1958; and good cause appearing therefor:

It is ordered, That the time within which such statements may be filed, be, and it is hereby, further extended to May 15, 1959.

Notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

Dated at Washington, D.C., this 6th day of March A.D. 1959.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-2152; Filed, Mar. 12, 1959;
8:47 a.m.]

NOTICES

GENERAL SERVICES ADMINISTRATION

ZIRCON CONCENTRATES HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 53 Stat. 811, as amended, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 15,902 short dry tons of zircon concentrates now held in the national stockpile.

The Office of Defense Mobilization (one of the predecessor agencies of the Office of Civil and Defense Mobilization) made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, that there is no longer any need for stockpiling zircon. The revised determination was made for the reason that requirements for zircon for an emergency are estimated to be considerably below the estimated available supply.

General Services Administration proposes to sell said zircon by competitive bidding with not more than fifty per cent of the total quantity to be offered for sale in any twelve month period.

It is believed that this plan of disposition will protect the United States against avoidable loss on the sale or transfer of such material and will also protect producers, processors and consumers against avoidable disruption of their usual markets.

It is proposed to make the zircon covered by this notice available for sale beginning six months after the date of publication of this notice in the FEDERAL REGISTER. Since the revised determination is not by reason of obsolescence of zircon for use in time of war, this proposed disposition is being referred to the Congress for its express approval, as required by section 3(e) of the Strategic and Critical Materials Stock Piling Act.

Dated: March 6, 1959.

FRANKLIN FLOETE,
Administrator of General Services.

[F.R. Doc. 59-2161; Filed, Mar. 12, 1959;
8:49 a.m.]

BADDELEYITE HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 53 Stat. 811, as amended, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 16,533 short dry tons of baddeleyite (zirconium ore) now held in the national stockpile.

The Office of Civil and Defense Mobilization made a revised determination, pursuant to section 2(a) of the Strategic

and Critical Materials Stock Piling Act, that there is no longer any need for stockpiling baddeleyite. The revised determination was by reason of obsolescence of the stockpiled baddeleyite for use in time of war and was based upon the finding of the Office of Civil and Defense Mobilization that, in use, baddeleyite has been substantially replaced by zircon sands and that a substantial surplus of zircon would be available to cover the relatively minor deficit estimated for baddeleyite in an emergency.

General Services Administration proposes to sell said baddeleyite by competitive bidding with not more than fifty percent of the total quantity to be offered for sale in any twelve month period.

It is believed that this plan of disposition will protect the United States against avoidable loss on the sale or transfer of such material and will also protect producers, processors and consumers against avoidable disruption of their usual markets.

It is proposed to make the baddeleyite covered by this notice available for sale beginning six months after the date of publication of this notice in the FEDERAL REGISTER.

Dated: March 6, 1959.

FRANKLIN FLOETE,
Administrator of General Services.

[F.R. Doc. 59-2162; Filed, Mar. 12, 1959;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-6865]

BLACK HILLS POWER AND LIGHT CO.

Notice of Application

MARCH 6, 1959.

Take notice that on March 4, 1959, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Black Hills Power and Light Company ("Applicant"), a corporation organized under the laws of the State of South Dakota and doing business in the States of South Dakota and Wyoming, with its principal business office at Rapid City, South Dakota, seeking an order authorizing the issuance of such number of shares of its Common Stock, par value \$1.00 per share ("Additional Common Stock"), as will equal an aggregate offering price not in excess of \$1,000,000.00, computed upon the basis of the market value of Applicant's Common Stock as determined from transactions or quotations in the Over-the-Counter Market on a specified date within fifteen days of the date of offering. Applicant proposes to offer the Additional Common Stock to its holders of Common Stock pursuant to their preemptive rights as required by Applicant's Articles of Incorporation. The exact number of shares to be offered and the price thereof are to be supplied by amendment. Applicant proposes to

arrange with Dillon, Read & Co., Inc. of New York, New York, for the underwriting of such shares of the Additional Common Stock as the holders may not purchase pursuant to the rights to be issued to them. The details of the underwriting by Dillon, Read & Co., Inc. will be supplied by amendment to this application. Applicant estimates the net proceeds from the sale of the aforesaid securities at approximately \$940,808.00 and proposes to use said proceeds to pay off a short-term bank loan of \$300,000.00 with the balance employed for its construction program.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 26th day of March 1959, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTHRIE,
Secretary.

[F.R. Doc. 59-2134; Filed, Mar. 12, 1959;
8:45 a.m.]

[Docket Nos. G-16291, G-16292]

ATLANTIC REFINING CO.

Notice of Applications and Date of Hearing

MARCH 6, 1959.

Take notice that on August 26, 1958, The Atlantic Refining Company (Applicant) filed in Docket Nos. G-16291 and G-16292 applications pursuant to section 7(b) of the Natural Gas Act for permission and approval of the abandonment of service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully described in the applications.

Applicant proposes:

(1) In Docket No. G-16291, to abandon the sale of natural gas to United Gas Pipe Line Company (United) from the Donald S. Gardner No. 1 Well in the Lewisburg Field, St. Landry Parish, Louisiana, covered by a sales contract executed November 13, 1953, between Applicant and Cities Service Oil Company as sellers, which well has been abandoned. Applicant's lease has expired under its own terms.

(2) In Docket No. G-16292, to abandon natural gas service to Delhi Oil Corporation (Delhi) with respect to Applicant's interest in the Delhi Atlantic 4-A (Dakota) Well in the Blanco (Dakota) Field, San Juan County, New Mexico, covered by a division order dated December 13, 1952, as amended, which well has been plugged and abandoned.

Applicant was authorized to render the above services, among others, on August 5, 1958, in Docket No. G-3894.

The above applications are on file with the Commission and open to public inspection.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 on April 7, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 31, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2135; Filed, Mar. 12, 1959;
8:45 a.m.]

[Docket No. G-17161 etc.]

SECURE TRUSTS ET AL.

Order for Hearings and Suspending Proposed Changes in Rates ¹

MARCH 6, 1959.

In the matters of Secure Trusts, Docket No. G-17161; Estate of Lyda Bunker Hunt, Docket No. G-17162; H. L. Hunt (Operator) et al., Docket No. G-17163; Claude M. Langton, Trustee, Docket No. G-17164.

On February 6, 1959, the above-named Respondents tendered the following designated filings proposing tax changes to their previously submitted rate increases:

Description: Notices of Change, dated February 4, 1959.

Purchaser: Trunkline Gas Company.

Rate schedule designation: Supplement No. 1 to Supplement No. 4 to Secure Trusts' FPC Gas Rate Schedule No. 2. Supplement No. 1 to Supplement No. 4 to Estate of Lyda Bunker Hunt's FPC Gas Rate Schedule No. 2. Supplement No. 1 to Supplement No. 4 to H. L. Hunt (Operator) et al.'s FPC Gas Rate Schedule No. 13. Supplement No. 1 to Supplement No. 4 to Claude M. Langton, trustee's FPC Gas Rate Schedule No. 1.

In their filings, Respondents requested that their previous supplements be amended to reflect the tax reimburse-

¹ This order does not provide for the consolidation for hearing of the above dockets, nor should it be so construed.

ment resulting from the suspension of the Louisiana gas gathering tax and the increase in the Louisiana gas severance tax as set forth in their designated filings. The Commission in its order issued December 18, 1958, suspended Respondents' prior supplements until June 1, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

The Commission finds:

(1) It is necessary and in the public interest that the aforementioned designated supplements be permitted to be filed.

(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 a hearing concerning the lawfulness of the proposed changes, and that the aforementioned designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) The aforementioned designated supplements are hereby permitted to be filed.

(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 Ch. I), public hearings be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rates and charges contained in the aforementioned designated supplements.

(C) Pending such hearings and decisions thereon, said designated supplements are suspended and the use thereof deferred until June 1, 1959, or until the date upon which Respondents' prior supplements 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) The issuance of this order shall constitute full notice of the filing and publication of the proposed changes in rates insofar as their effective date is concerned.

(F) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2136; Filed, Mar. 12, 1959;
8:45 a.m.]

[Docket No. G-17919]

HEFNER PRODUCTION CO.

Order for Hearing and Suspending Proposed Change in Rate

MARCH 6, 1959.

The Hefner Production Company (Hefner) on February 5, 1959, tendered

for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated February 3, 1959.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: Supplement No. 1 to Hefner's FPC Gas Rate Schedule No. 1.

Effective date: March 8, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Hefner states that the contract was negotiated at arm's-length, and that the proposed rate amounts to a periodic increase which partially compensates for increasing costs.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 1 to Hefner's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 1 to Hefner's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 8, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2137; Filed, Mar. 12, 1959;
8:45 a.m.]

[Docket No. G-17920]

PHILLIPS PETROLEUM CO.**Order for Hearing and Suspending Proposed Change in Rate**

MARCH 6, 1959.

Phillips Petroleum Company (Phillips) on February 6, 1959, tendered for filing a proposed change in its presently effective rate schedule¹ for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rate and charge, is contained in the following designated filings:

Description: Notice of Change, dated February 4, 1959.

Purchaser: Southern Natural Gas Company.

Rate schedule designation: Supplement No. 14 to Phillips' FPC Gas Rate Schedule No. 219.

Effective date: March 9, 1959 (effective date is that proposed by Phillips).

In support of the proposed favored-nation rate increases, Phillips cited the contract provisions and submitted a copy of the purchaser's favored-nation letter. Phillips further states that other sales are being made in the area at prices equal to or greater than its proposed price. In addition, Phillips states that the proposed rate is just and reasonable and refers to cost of service data submitted in the rate proceedings in Docket Nos. G-1148, et al.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 14 to Phillips' FPC Gas Rate Schedule No. 219 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 14 to Phillips' FPC Gas Rate Schedule No. 219.

(B) Pending such hearing and decision thereon, said supplement be and it is suspended and the use thereof deferred until August 9, 1959, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has

expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2138; Filed, Mar. 12, 1959;
8:46 a.m.]

[Docket No. G-17921]

SLICK OIL CORP. ET AL.**Order for Hearing and Suspending Proposed Change in Rate**

MARCH 9, 1959.

Slick Oil Corporation (Operator) et al. (Slick) on February 9, 1959, tendered for filing a proposed change in their presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 8 to Slick's FPC Gas Rate Schedule No. 6.

Effective date: March 12, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Slick states that the contract was negotiated at arm's length, and that their proposed redetermined rate is below the highest price in the area. Slick submitted copies of Tennessee's rate redetermination letter, providing for said redetermination.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 8 to Slick's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 8 to Slick's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 12, 1959,

and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 59-2139; Filed, Mar. 12, 1959;
8:46 a.m.]

[Docket No. G-17922]

**SUNRAY MID-CONTINENT OIL CO.
ET AL.****Order for Hearing, Suspending Proposed Change in Rate, and Allowing Increased Rate To Become Effective**

MARCH 9, 1959.

Sunray Mid-Continent Oil Company (Operator) et al. (Sunray) on February 9, 1959, tendered for filing a proposed change in its presently effective rate schedule¹ for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated February 5, 1959.

Purchaser: Arkansas Louisiana Gas Company.

Rate schedule designation: Supplement No. 8 to Sunray's FPC Gas Rate No. 47.

Effective date: March 12, 1959 (effective date is the first day following expiration of statutory notice).

In support of the proposed periodic rate increase, Sunray states that the proposed increase should be accepted in view of the arm's-length negotiation of the original contract and without provisions that would insure its receiving the full market value of the gas it would not have executed the long-term contract. Denial of the increase would be discriminatory.

Sunray has interpreted the tax provisions of the aforementioned rate schedule to the effect that the tax reimbursement of the Louisiana severance tax will be at the same reimbursement level that Sunray received for the Louisiana gathering tax. This interpretation is contrary to Arkansas Louisiana's interpretation and should be determined after hearing.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

¹ Rate in effect subject to refund in Docket No. G-17695.

¹ Rates in effect subject to refund in Docket No. G-16083.

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 proposed change, and that Supplement No. 8 to Sunray's FPC Gas Rate Schedule No. 47 be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Sunray be required to file an undertaking as hereinafter ordered and conditioned.

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 upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 8 to Sunray's FPC Gas Rate Schedule No. 47.

(B) Pending such hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until March 13, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement shall be effective on March 13, 1959: *Provided, however,* That within 20 days from the date of this order, Sunray shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Sunray shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Sunray until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly (or quarterly if Sunray so elects), for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Sunray shall execute and file in tripli-

cate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of the Sunray Mid-Continent Oil Company (Operator) et al. To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued (Date), in Docket No. G-17922, the Sunray Mid-Continent Oil Company (Operator), et al. hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this ----- day of -----

SUNRAY MID-CONTINENT OIL COMPANY (OPERATOR) ET AL.

By -----
Attest: -----

As a further condition of this order, Sunray shall file with the agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Sunray is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Sunray shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioners Kline and Hussey dissenting).

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2140; Filed, Mar. 12, 1959;
8:46 a.m.]

[Docket No. G-17923]

SUN OIL CO. ET AL.

Order for Hearing and Suspending Proposed Changes in Rates

MARCH 9, 1959.

Sun Oil Company (Operator) et al. (Sun) on February 9, 1959, tendered for filing proposed changes in its 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 contained in the following designated filing:

Description: Notices of Change, dated February 2, 1959.

Purchaser: Transcontinental Gas Pipe Line Corporation.

Rate schedule designations: Supplement No. 22 to Sun's FPC Gas Rate Schedule No. 44.¹ Supplement No. 6 to Sun's FPC Gas Rate Schedule No. 71.²

Effective date: March 12, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increases, Sun submits a letter of notification from the buyer, Transcontinental Gas Pipe Line Corporation, and states that their contracts were negotiated at arm's length and the proposed price does not exceed the value of the gas.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes and that Supplement No. 22 to Sun's FPC Gas Rate Schedule No. 44 and Supplement No. 6 to Sun's FPC Gas Rate Schedule No. 71 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 22 to Sun's FPC Gas Rate Schedule No. 44 and Supplement No. 6 to Sun's FPC Gas Rate Schedule No. 71.

(B) Pending such hearing and decision thereon, said supplements be and they are hereby suspended and the use thereof deferred until August 12, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2141; Filed, Mar. 12, 1959;
8:46 a.m.]

¹ Rate in effect subject to refund in Docket No. G-15768.

² Rate in effect subject to refund in Docket No. G-15632.

[Docket No. G-17926]

M. B. ARMER**Order for Hearing and Suspending Proposed Change in Rate**

MARCH 9, 1959.

M. B. Armer, on February 12, 1959, tendered for filing a proposed change in his presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated February 9, 1959.

Purchaser: Panhandle Eastern Pipe Line Company.

Rate schedule designation: Supplement No. 2 to M. B. Armer's FPC Gas Rate Schedule No. 3.

Effective date: March 15, 1959 (effective date is the first day after the required thirty days' notice).

In support of the renegotiated rate increase, M. B. Armer submits copies of the renegotiation agreement, cites the contract provisions, and states that the increase is designed to partially compensate sellers for increased costs of operation. Applicant requests waiver of notice to permit the increase to be effective as of February 12, 1959.

The increased rate and charge so proposed has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change and that Supplement No. 2 to M. B. Armer's FPC Gas Rate Schedule No. 3 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to M. B. Armer's FPC Gas Rate Schedule No. 3.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until August 15, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37

(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2142; Filed, Mar. 12, 1959;
8:46 a.m.]

[Docket No. G-17927]

ARMER DRILLING CO. ET AL.**Order for Hearing and Suspending Proposed Change in Rate**

MARCH 9, 1959.

On February 12, 1959, Armer Drilling Company (Operator) et al. (Armer) tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated February 9, 1959.

Purchaser: Panhandle Eastern Pipe Line Company.

Rate schedule designation: Supplement No. 2 to Armer's FPC Gas Rate Schedule No. 1.

Effective date: March 15, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed increase, Armer submits copies of a renegotiation agreement, cites the contract provisions and states that the increase is designed to partially compensate the seller for increased cost of operations. Armer requests waiver of notice to permit the increase to be effective as of February 12, 1959.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Armer's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Armer's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 15, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2143; Filed, Mar. 12, 1959;
8:46 a.m.]

[Docket No. G-17928]

P. R. RUTHERFORD**Order for Hearing and Suspending Proposed Change in Rate**

MARCH 9, 1959.

P. R. Rutherford on February 12, 1959, tendered for filing a proposed change in his presently effective rate schedule¹ for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, February 5, 1959.

Purchaser: Transcontinental Gas Pipe Line Corporation.

Rate schedule designation: Supplement No. 3 to P. R. Rutherford's FPC Gas Rate Schedule No. 3.

Effective date: March 15, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increase, P. R. Rutherford states that the favored-nation clause responsible for the instant increase was entered into at arm's length, cites the contract provisions and submits copies of Transcontinental Gas Pipe Line Corporation's letter; P. R. Rutherford further states that increased revenues are necessary to cover increased costs of operations. P. R. Rutherford requests waiver of notice to permit the increase to be effective as of December 4, 1958.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 3 to P. R. Rutherford's FPC Gas Rate Schedule No. 3 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4

¹ Present rate is in effect subject to refund in Docket No. G-15938.

and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to P. R. Rutherford's FPC Gas Rate Schedule No. 3.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 15, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-2144; Filed, Mar. 12, 1959;
8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1208]

INVESTORS DIVERSIFIED SERVICES, INC., ET AL.

Notice of Filing of Application for Order Exempting Sale by Open-End Company of Its Shares to Associa- tions on Basis of Reduced Sales Load

MARCH 5, 1959.

In the matter of Investors Diversified Services, Inc., Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc., Investors Group Canadian Fund, Ltd.; File No. 812-1208.

Notice is hereby given that Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc. and Investors Group Canadian Fund, Ltd., open-end investment companies registered under the Investment Company Act of 1940 ("Act") and Investors Diversified Services Inc., a registered face-amount certificate investment company and principal underwriter and distributor for the named open-end companies (all collectively referred to herein as "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act and Rule 22d-1 adopted thereunder the proposed issuance and sale of shares of the open-end companies to certain Associations for the account of the

individual members of said Associations on the basis of a reduced sales load applicable to quantity purchases as disclosed in the prospectuses of such open-end companies.

Los Angeles Physicians Retirement Association and Los Angeles Dentists Retirement Association ("Association" or "Associations") are non-profit California membership corporations having as members, respectively, approximately 1,100 physicians and 500 dentists. They were organized to assist their members in the establishment of individual, personal retirement plans, and commenced operations, respectively, in November 1955 and March 1957. Since then, the membership of the two organizations, composed entirely of professional men (physicians and dentists), have succeeded in setting aside approximately \$5,000,000 for their retirement income. University Retirement Investment Association is a non-profit organization organized in September of 1954 whose members are all full-time faculty and staff personnel of the University of Minnesota. It was organized to assist its individual members in establishing personal retirement plans and its approximately 230 members have contributed for such purpose approximately \$520,000.

The funds so set aside have been invested in shares of Mutual, Selective, Stock, Variable or Canadian, for the accounts of the individual members, as specified by such members. The Associations' members' funds are of course respectively combined in making purchases and have up to now received the benefit of the same quantity discount as though their purchases were made by one person, and their members have had and are now receiving a corresponding benefit.

On December 2, 1958, the Commission promulgated the new Rule 22d-1 under the Act, to become effective January 20, 1959 (this date subsequently changed to March 20, 1959), which specified, among other things, that open-end investment companies and their underwriters may no longer treat as one person "a group of individuals whose funds are combined, directly or indirectly, for the purchase of redeemable securities of a registered investment company jointly or through a trustee, agent, custodian, or other representative, nor * * * a trustee, agent, custodian, or other representative of such a group of individuals." The new rule would, therefore, prevent the applicants from continuing, after March 20, 1959, the sale of shares of the open-end investment companies to these Associations at the quantity discount rate of sales charge which now applies.

The application states that officers of the Associations have requested of the Applicants that they lend their assistance to the Associations' efforts to obtain some relief from the immediate impact of the new rule. The members of these Associations are now shareholders of the Applicant fund companies and such applicants feel a distinct obligation to them as shareholders, which obligation requires that all efforts be made to see that these shareholders are permitted to continue retirement plans which they

adopted with great care and in good faith.

Applicants assert their belief that only a few plans such as the ones here concerned have heretofore been set up. It is the position of Applicants that these few plans involving vital long-term retirement planning by several hundred people should not be summarily terminated, at least until the interests of such persons can be adequately formulated and protected. It is stated that this cannot be done by March 20, 1959.

Applicants are requesting at this time by the application filed that the Commission grant an order exempting the Applicants from the operations of its Rule 22d-1 in respect of sales of shares of the applicant open-end investment companies to both of the Los Angeles Retirement Associations and the University Retirement Investment Association pursuant to terms and arrangements now existing for a temporary period to and including August 20, 1959.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds 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.

Notice is further given that any interested person may, not later than March 19, 1959 at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C. At any time after said date the application may be granted as provided in Rule O-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-2146; Filed, Mar. 12, 1959;
8:47 a.m.]

[File No. 7-1974]

FOOD FAIR STORES, INC.

Notice of Application for Unlisted Trading Privileges, and of Oppor- tunity for Hearing

MARCH 9, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Food Fair Stores, Inc. common stock; File No. 7-1974.

The above named stock exchange, pursuant to section 12(f) (2) of the Securi-

[File No. 7-1976]

WILSON & CO., INC.**Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing**

MARCH 9, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Wilson & Co., Inc., common stock; File No. 7-1976.

The above-named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before March 25, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F.R. Doc. 59-2147; Filed, Mar. 12, 1959;
8:47 a.m.]

[File No. 7-1975]

UPJOHN CO.**Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing**

MARCH 9, 1959.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Upjohn Company common stock; File No. 7-1975.

The above-named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before March 25, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F.R. Doc. 50-2148; Filed, Mar. 12, 1959;
8:47 a.m.]

[File No. 7-1977]

OHIO BRASS CO.**Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing**

MARCH 9, 1959.

In the matter of application by the American Stock Exchange for unlisted trading privileges in The Ohio Brass Company common stock; File No. 7-1977.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the Midwest Stock Exchange.

Upon receipt of a request, on or before March 25, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit

his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F.R. Doc. 59-2150; Filed, Mar. 12, 1959;
8:47 a.m.]**TARIFF COMMISSION**

[Investigation 78]

BROADWOVEN SILK FABRICS**Notice of Investigation and Hearing**

Investigation No. 78 under section 7, Trade Agreements Extension Act of 1951, as amended.

Investigation instituted. Upon application of the American Silk Council, Inc., et al, received February 26, 1959, the United States Tariff Commission, on the 6th day of March 1959, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted an investigation to determine whether woven fabrics, wholly or in chief value of silk, classifiable under paragraph 1205 of the Tariff Act of 1930 are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in this investigation will be held beginning at 10 a.m. e.d.s.t., on May 19, 1959, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the office of the Tariff Commission in New York City, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: March 10, 1959.

By order of the Commission.

[SEAL] DONN N. BENT,
Secretary.[F.R. Doc. 59-2163; Filed, Mar. 12, 1959;
8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 95]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 10, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61808. By order of February 26, 1959, the Transfer Board approved the transfer of Laurence J. Ver Steeg and Leon Dale Ver Steeg, doing business as Ver Steeg Transfer and Feed, Orange City, Iowa, of Certificate No. MC 1285, issued March 6, 1942, acquired by Leon Dale Ver Steeg, Sioux Center, Iowa, pursuant to MC-FC 60920, authorizing the transportation of: Livestock, grain, hay, and emigrant moveables, between Sioux Center, Iowa, and points within 25 miles of Sioux Center, on the one hand, and, on the other, points in Minnesota, South Dakota, and Nebraska within 100 miles of Sioux Center, and agricultural implements and livestock feeds, from Sioux Falls, S. Dak., to Sioux Center, Iowa, and points within 25 miles of Sioux Center.

No. MC-FC 61809. By order of February 26, 1959, the Transfer Board approved the transfer to Laurence Werry, Niagara Falls, N.Y., of Certificate No. MC 116661, issued August 5, 1958, to Grace W. Grimes, doing business as Bridal Veil Tours, Niagara Falls, N.Y., authorizing the transportation of: Passengers and their baggage, in special operations, in round-trip sightseeing or pleasure tours, limited to the transportation of not more than seven passengers in any one vehicle, but not including the driver thereof and not including children under ten years of age who do not occupy a seat or seats, in seasonal operations between April 15 and October 1, inclusive, of each year, beginning and ending at Niagara Falls, N.Y., and points in Niagara County, N.Y., within six miles thereof, and extending to ports of entry on the United States-Canada Boundary line at Niagara Falls and Lewiston, N.Y. Clarence E. Rhoney, 94 Oakwood Avenue, North Tonawanda, N.Y., for applicants.

No. MC-FC 61814. By order of February 27, 1959, the Transfer Board approved the transfer to J. B. Williams Express, Inc., Brooklyn, N.Y., of a portion of Certificate in No. MC 41409, issued March 25, 1958, to Block & Rose, Inc., New York, N.Y., authorizing the

transportation of: *Salvaged merchandise*, from points in Connecticut, New Jersey, New York, and Pennsylvania, to New York, N.Y. David Brodsky, Brodsky & Lieberman, 1776 Broadway, New York 19, N.Y., for applicants.

No. MC-FC 61887. By order of February 26, 1959, the Transfer Board approved the transfer to Cornelius Spaans and Henry D. Spaans, a partnership, doing business as Spaans Bros., Stickney, South Dakota, of a certificate in No. MC 6934 Sub 1, issued April 23, 1957, to Wm. Hargens, Jr., Stickney, South Dakota, authorizing the transportation of feed and dry fertilizer, over irregular routes, from points in Iowa, Minnesota, and Nebraska, to points in Aurora and Douglas Counties, S. Dak. Laird Rasmussen, Dana, Golden, Moore & Rasmussen, 812-814 National Bank of South Dakota Building, Sioux Falls, South Dakota.

No. MC-FC 61892. By order of February 27, 1959, the Transfer Board approved the transfer to Milton H. Bryan, doing business as Bryan Tank Lines, Cheyenne, Wyo., of Certificates in Nos. MC 29991, MC 29991 Sub 28 and MC 29991 Sub 31, issued March 12, 1956, July 14, 1954, and December 26, 1957, respectively, to Barlow's Service, Inc., Denver, Colo., authorizing the transportation of: certain petroleum products between specified points in Colorado, Kansas, Montana and Wyoming. Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo., for applicants.

No. MC-FC 61908. By order of February 27, 1959, the Transfer Board approved the transfer to Hahn's Express, Inc., Dover, New Jersey, of Certificate in No. MC 9740, issued June 5, 1953, to Eva B. Hahn, doing business as Hahn's Express, Dover, New Jersey, authorizing the transportation of: *General commodities*, except Household goods, commodities in bulk, and the other usual exceptions, between Dover, N.J., and Newark, N.J. Edward F. Bowes, 1060 Broad Street, Newark 2, N.J., for applicants.

No. MC-FC 61952. By order of February 26, 1959, the Transfer Board approved the transfer to Barricks Motor Lines, Incorporated, Petersburg, Virginia, of certificates in Nos. MC 30062 and MC 30062 Sub 2, issued August 18, 1958, and April 26, 1949, and held by John David Barricks, William Thomas Hughes, Jr., Administrator, doing business as Barricks Motor Lines, Petersburg, Virginia, authorizing the transportation of specified commodities from, to, and between, specified points in Virginia, New York, Maryland, Pennsylvania, New Jersey, Delaware, North Carolina, and the District of Columbia. J. D. Clark, 1111 E Street NW, Washington, D.C., and Mrs. Rachel B. Hughes, P.O. Box 1265, Petersburg, Virginia.

No. MC-FC 61953. By order of February 26, 1959, the Transfer Board approved the transfer to James J. Borda, doing business as Railway Crating & Packing Co., New York, New York, of the operating rights in Certificate No. MC 95642, issued October 31, 1958, to Anthony Caminiti and Joseph Sepe, a Partnership, doing business as Stewart Moving & Storage Co., Brooklyn, New York, authorizing the transportation, over ir-

regular routes, of household goods, between New York, N.Y., on the one hand, and, on the other, Bethlehem, and Philadelphia, Pa., and points in Connecticut and New Jersey. Morris Honig, 150 Broadway, New York 38, New York, for applicants.

[SEAL]

HAROLD D. McCoy,
Secretary.[F.R. Doc. 59-2153; Filed, Mar. 12, 1959;
8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 10, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35283: *Plate or sheet—Illinois points to Texas points*. Filed by Southwestern Freight Bureau, Agent (No. B-7506), for interested rail carriers. Rates on iron or steel plate, plates or sheets, straight or mixed carloads from East St. Louis and Granite City, Ill., to Belton and Temple, Tex.

Grounds for relief: Barge-truck competition.

Tariff: Supplement 28 to Southwestern Freight Bureau tariff I.C.C. 4308.

FSA No. 35284: *Pipe or tubing—Sault Ste. Marie, Ont., to Chicago, Ill., and group*. Filed by Duluth, South Shore and Atlantic Railroad Company (No. A-4), for interested rail carriers. Rates on pipe or tubing, steel or wrought iron, welded or seamless, carloads from Sault Ste. Marie, Ont., Canada to Chicago, Ill., and points grouped therewith as taking same rate.

Grounds for relief: Competition of carriers by water.

Tariff: Supplement 41 to Duluth, South Shore and Atlantic Railroad Company tariff I.C.C. 3931.

FSA No. 35286: *Petroleum and products—Council Bluffs, Iowa, to Nebraska points*. Filed by Western Trunk Line Committee, Agent (No. A-2044), for interested rail carriers. Rates on petroleum and petroleum products, carloads from Council Bluffs, Iowa to specified points in Nebraska.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 11 to Western Trunk Lines tariff I.C.C. No. A-4199.

FSA No. 35287: *Xylene—Big Spring, Tex., to Thompson's Point, N.J.* Filed by Southwestern Freight Bureau, Agent (No. B-7503), for interested rail carriers. Rates on xylene (xylo), tank-car loads from Big Spring, Tex., to Thompson's Point, N.J.

Grounds for relief: Commercial competition with Gibbstown, N.J.

Tariff: Supplement 55 to Southwestern Lines Freight tariff I.C.C. 4139.

FSA No. 35288: *Ferro-Alloys—Houston, Tex., to Chicago, Ill.* Filed by Southwestern Freight Bureau, Agent (No. B-7502), for interested rail carriers. Rates on ferro-manganese, ferro-silicon, ferro-chrome, ferro-silicon-

chrome, and silico-manganese, straight or mixed carloads from Houston, Tex., to Chicago, Ill.

Grounds for relief: Competition with barge lines in connection with domestic rates established to meet competition with imported traffic on same commodities.

Tariff: Supplement 558 to Southwestern Lines tariff I.C.C. 4139.

AGGREGATE-OF-INTERMEDIATES

FSA No. 35285: *Pipe or tubing—Sault Ste. Marie, Ont., to Chicago, Ill., and*

group. Filed by the Duluth, South Shore and Atlantic Railroad Company (No. A-5), The Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, (No. 87), and other carriers parties to schedules listed below. Rates on pipe or tubing, steel or wrought iron, welded or seamless, carloads from Sault Ste. Marie, Ont., Canada, to Chicago, Ill., points grouped therewith as taking same rate.

Grounds for relief: Maintenance of depressed rate not applicable in construct-

ing combination-rates from or to points on rail carriers beyond named points.

Tariffs: Supplement 31 to The Minneapolis, St. Paul & Sault Ste. Marie Railroad Company tariff I.C.C. 7471 Supplement 41 to Duluth, South Shore and Atlantic Railroad Company's tariff I.C.C. 3931.

By the Commission.

[SEAL]

HAROLD D. McCox,
Secretary.

[F.R. Doc. 59-2154; Filed, Mar. 12, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—MARCH

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

3 CFR	Page	14 CFR—Continued	Page	32 CFR—Continued	Page
<i>Proclamations:</i>					
2867	1583	608	1832	605	1736
3040	1583	609	1554	606	1736
3140	1583	610	1677	861	1567
3276	1581	15 CFR			
3277	1581	230	1785	864	1567
3278	1583	373	1701	881	1567
3279	1781	382	1701	1201	1644
<i>Executive orders:</i>					
10761	1781	399	1567	33 CFR	
10806	1823	13			
5 CFR					
6	1549, 1583, 1702	1643, 1682, 1683, 1736, 1786, 1787			
325	1733, 1786	17 CFR			
6 CFR					
331	1824	<i>Proposed rules:</i>			
366	1675	230	1572, 1806	36 CFR	
371	1675	240	1572	13	1585
421	1633	250	1572	38 CFR	
503	1677	270	1572	3	1684
7 CFR					
52	1677, 1825	19 CFR			
730	1640	16	1585, 1684	<i>Proposed rules:</i>	
855	1699	26	1719	111	1834
914	1584, 1699, 1701	21 CFR			
933	1826	3	1684	41 CFR	
953	1555, 1701, 1733	27	1787	<i>Proposed rules:</i>	
959	1735	146c	1553, 1833	202	1841
978	1784	146e	1833	42 CFR	
982	1785	164	1553	21	1790
984	1826	<i>Proposed rules:</i>			
<i>Proposed rules:</i>					
29	1586	120	1573, 1686, 1721	58	1649
52	1570	22 CFR			
813	1661	11	1553	43 CFR	
902	1805	24 CFR			
903	1685	292a	1684	<i>Public land orders:</i>	
914	1685	25 CFR			
930	1753	172	1568	207	1570
965	1593, 1755	<i>Proposed rules:</i>			
971	1598	121	1720	553	1652
972	1656, 1834	221	1721	868	1570
989	1660	26 (1939) CFR			
1005	1841	<i>Proposed rules:</i>			
1012	1656, 1834	39	1750	1233	1792
9 CFR					
79	1825	26 (1954) CFR			
180	1549	31	1644	1792	1570
10 CFR					
<i>Proposed rules:</i>					
80	1721	296	1704	1804	1570
12 CFR					
222	1584	<i>Proposed rules:</i>			
13 CFR					
128	1827	1	1655, 1752, 1793	1805	1570
14 CFR					
241	1735	32 CFR			
242	1585	2	1556	1806	1650
292	1702	17	1556	1807	1651
293	1703	30	1563	1808	1651
296	1703	44	1704	1809	1651
297	1703	62	1789	1810	1652
298	1704	63	1789	1811	1652
321	1829	63	1789	1812	1652
600	1830	536	1823	1813	1653
601	1831	578	1790	1814	1719
32 CFR—Continued					
605					
606					
861					
864					
881					
1201					
33 CFR					
202					
203					
207					
36 CFR					
13					
38 CFR					
3					
39 CFR					
26					
<i>Proposed rules:</i>					
111					
41 CFR					
<i>Proposed rules:</i>					
202					
42 CFR					
21					
58					
43 CFR					
<i>Public land orders:</i>					
207					
553					
868					
1233					
1792					
1804					
1805					
1806					
1807					
1808					
1809					
1810					
1811					
1812					
1813					
1814					
1815					
1816					
46 CFR					
281					
309					
47 CFR					
4					
19					
31					
<i>Proposed rules:</i>					
1					
3					
10					
49 CFR					
95					
207					
<i>Proposed rules:</i>					
193					
50 CFR					
33					
<i>Proposed rules:</i>					
31					
33					

