FEDERAL REGISTER

VOLUME 34 • NUMBER 80

Saturday, April 26, 1969 • Washington, D.C.

Pages 6957–7000

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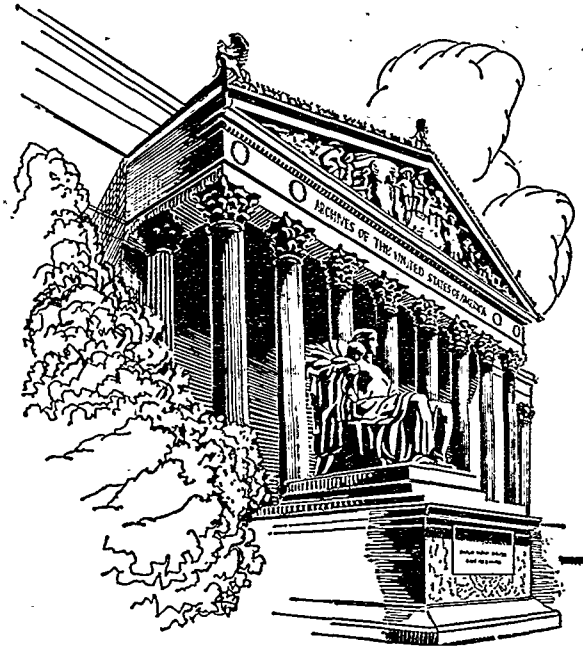

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—THE PRESIDENT

Proclamation 3910

MOTHER'S DAY, 1969

By the President of the United States of America

A Proclamation

Fifty-five years ago President Woodrow Wilson called upon the American people to display the flag as "a public expression of our love and reverence for the mothers of the country." The United States of America and the world have changed greatly since then, but the desire and need for a public display of love and affection for our mothers has remained.

How has such a day of commemoration survived the changes of taste, of value, of belief that have marked these years? I am convinced that the answer lies in the fact that the essential things never change at all. Mother's Day is set aside not only to publicly demonstrate what we all privately feel about our mothers, but for another purpose: it serves to remind us all that there is, at the heart of things, a sense of mystery and wonder, a dimly-understood but strongly felt feeling of continuity and interdependence which binds all men together and which is most clearly seen in the miracle of motherhood.

Nowhere in the complexity of the modern world are we more forcefully reminded of the power of love against hate, of creation over destruction, of life against death than in the gentle strength, the deep compassion of a mother.

On Mother's Day we demonstrate to our mothers not only love for who they are but reverence for what they represent: the sacredness of human life and the majesty of the ancient principles which enhance it and guide it toward public and private virtue.

A joint resolution of the Congress, approved on May 8, 1914, sets aside the second Sunday of May as the special day to pay tribute to our mothers.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby request that Sunday, May 11, 1969, be observed as Mother's Day; and I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on that day.

I call upon the people of the United States to honor the mothers of our country by displaying the flag at their homes or other suitable places and by expressions of love and respect.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, in the year of our Lord nineteen hundred and sixty-nine, and of the Independence of the United States of America the one hundred and ninety-third.

Richard Nixon

[F.R. Doc. 69-5103; Filed, Apr. 25, 1969; 12:31 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

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

Postponement of Effective Dates

On March 27, 1969, a revision of the regulations (7 CFR Part 68) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), was published in the FEDERAL REGISTER (34 F.R. 5709) to become effective 30 days after publication, except that the provisions deleting references to the inspection of U.S. grain in Canada and testing of wheat for protein content and sedimentation value were to become effective 180 days after publication.

The members of the rice industry requested postponement of the effective dates until after a discussion meeting could be held in New Orleans, La., during the week of May 19. In view of the request it is deemed appropriate to postpone the effective dates of the revision, and under authority contained in sections 203 and 205 of the Act (7 U.S.C. 1622 and 1624), the effective date of the revision is hereby postponed until June 1, 1969, except that the provisions deleting references to the inspection of U.S. grain in Canada and the testing of wheat for protein content and sedimentation value shall become effective 180 days after the date of publication of this notice in the FEDERAL REGISTER.

If it appears after such meeting that further consideration should be given to the merits of the revision, a notice of further rule-making therefor will be published in the FEDERAL REGISTER and interested persons will be afforded opportunity to comment thereon. Otherwise the revision shall become effective as herein provided.

This document shall become effective upon issuance.

Since the purpose of the document is to delay at the request of the affected industry the effective dates of certain amendments which would otherwise take effect on April 26, 1969, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that notice and other public procedure with respect to this document are impracticable and good cause is found for making this document effective less than 30 days after its publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of April 1969.

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

[F.R. Doc. 69-5102; Filed, Apr. 25, 1969; 11:30 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Fruits and Vegetables

REVISION OF ADMINISTRATIVE INSTRUCTIONS PRESCRIBING METHOD OF TREATMENT OF MANGOES FROM CENTRAL AMERICA AND WEST INDIES

Pursuant to the authority conferred by § 319.56-2 of the regulations (7 CFR 319.56-2) supplemental to the Fruit and Vegetable Quarantine (Notice of Quarantine No. 56, 7 CFR 319.56), under sections 5 and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 162), administrative instructions appearing as 7 CFR 319.56-2i are hereby amended to read as follows:

§ 319.56-2i Administrative instructions prescribing method of treatment of mangoes from Central America and the West Indies.

Fumigation with ethylene dibromide upon arrival, in accordance with the procedures described in this section, is hereby authorized as a condition-of-entry treatment for mangoes from Central America and the West Indies offered for entry under permit under § 319.56-2.

(a) *Central America.* As used in this section, the term "Central America" means the southern portion of North America from the southern boundary of Mexico to South America, including Guatemala, British Honduras, Honduras, El Salvador, Nicaragua, Costa Rica, and Panama.

(b) *West Indies.* As used in this section, the term "West Indies" means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, including, among others, Cuba, Jamaica, Hispaniola, and the Bahama, Leeward, and Windward Islands, but excluding the chain of islands adjacent and parallel to the north coast of South America (the largest of which are Aruba, Curacao, Bonaire, Tortuga, Margarita, Trinidad and Tobago).

(c) *Ports of entry.* Mangoes to be offered for entry must be shipped from the country of origin directly to New York or such other North Atlantic ports as may be named in the permit. Furthermore, shipments moving by air must be so routed as to avoid landing at ports south of Baltimore.

(d) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide for 2 hours at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant Quarantine Division. The ethylene dibromide must be applied as a liquid and volatilized within the sealed fumigation chamber in an electrically heated vaporizing pan. The electrically heated vaporizing pan shall be controlled by a switch outside the chamber and shall be equipped with a signal light to indicate when the current is on or off. Fifteen minutes after all liquid ethylene dibromide has been injected into the vaporizing pan inside the fumigation chamber, the electric current for the vaporizing pan must be turned off, and the 2-hour period of exposure shall begin. The gas shall be circulated within the chamber continuously for the 2-hour period by electric fans or blowers. The fans or blowers must be of a capacity to circulate the entire air mass within the chamber in 1 minute.

(2) (i) Mangoes treated because of fruit flies of the genus *Anastrepha* from the countries of West Indies and Central America, except Bermuda, Costa Rica, Nicaragua, and Panama, shall be fumigated with one of the following schedules:

Fruit load in chamber [1]	Dosage of EDB in oz./1,000 cu.ft./2 hours		
	50° F.-59° F.	60° F.-69° F.	70° F. or above
25% or less	12 oz.	10 oz.	8 oz.
26% to 49%	14 oz.	12 oz.	10 oz.
50% to 80%	16 oz.	14 oz.	12 oz.

[1] % of chamber capacity.

The temperature shall be that of the fruit. Cubic feet of space shall be that of the unloaded chamber.

(ii) Mangoes treated because of fruit flies of the genus *Anastrepha* and the Mediterranean fruit fly (*Ceratitis capitata* Wiedemann) from the countries of Bermuda, Costa Rica, Nicaragua, and Panama shall be fumigated with one of the following schedules:

Fruit load in chamber [1]	Dosage of EDB in oz./1000 cu.ft./2 hours		
	60° F.-69° F.	70°F. or above	
25% or less	10 oz.	8 oz.	
26% to 49%	12 oz.	10 oz.	
50% to 80%	14 oz.	12 oz.	

[1] (% of chamber capacity).

The temperature shall be that of the fruit. Cubic feet of space shall be that of the unloaded chamber.

(3) Mangoes to be fumigated may be packed in slatted crates or well perforated unwaxed cardboard cartons with wood excelsior packing material. Fumigation of individually wrapped mangoes is not authorized unless wrappers are approved in advance by the Director of the Plant

Quarantine Division. When loaded in the fumigation chamber the crates or containers must be stacked evenly over the floor surface and the crates or containers in a stack shall be separated at least 2 inches on all sides by wooden strips or other means, to insure adequate gas circulation.

(e) *Other conditions.* The unloading of mangoes from the means of conveyance, their delivery to an approved fumigation plant, and the fumigation procedure shall be under the supervision of an Inspector of the Plant Quarantine Division. The unloading and delivery and any other handling prior to fumigation shall be conducted in accordance with such safeguard requirements as the Inspector may require to prevent the dissemination of injurious insects. Final release of the mangoes for entry into the United States will be conditioned upon compliance with such safeguard requirements and the prescribed regulations.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising Inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit, or his representative.

(g) *Department not responsible for damage.* The treatment prescribed in paragraph (d) of this section is judged from experimental tests to be safe for use with mangoes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment, or because of pretreatment or posttreatment safeguards, or compliance with requirements imposed under paragraph (e) of this section.

(Sec. 9, 37 Stat. 318, 7 U.S.C. 162. Interprets or applies sec. 5, 37 Stat. 316, 7 U.S.C. 159. 29 F.R. 16210, as amended, 33 F.R. 15485; 7 CFR 319.56–2)

These administrative instructions shall become effective upon publication in the FEDERAL REGISTER.

The principal changes made by this revision are: (1) A greater range of temperatures is provided at which mangoes may be treated as a condition of entry; and (2) the importation of mangoes under permit with fumigation treatment as a condition of entry is authorized from the Mediterranean fruit fly countries in the West Indies and Central America. It has been determined that these changes can be made without risk of introducing plant pests into the United States.

These instructions relieve certain restrictions and in order to be of maximum benefit to persons subject to the restrictions, they should be made effective as promptly as possible. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these instructions are impracticable and unnecessary, and they may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 23d day of April 1969.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 69–5007; Filed, Apr. 25, 1969; 8:48 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Regulation 815.10, Amdt. 1]

PART 815—ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

1969

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (hereinafter called the "Act") for the purpose of amending Sugar Regulation 815.10 (34 F.R. 425), which established allotments of the direct-consumption portion of the 1969 mainland quota for Puerto Rico.

This amendment of S.R. 815.10 is necessary (1) to substitute in the allotment formula final 1969 data on entries of direct-consumption sugar for estimates of such quantities, (2) to give effect to the direct-consumption portion of the 1969 mainland quota for Puerto Rico amounting to 162,000 short tons, raw value, as established in S.R. 811, Amendment 3 (34 F.R. 6469) for 1969 and (3) to allot the entire direct-consumption portion of the 1969 quota. Previous 1969 allotments were limited to 90 percent of the direct-consumption portion of the quota in effect on January 1, 1969.

The substitution of final data for estimates of 1968 direct-consumption entries in finding (7) results in the 1964–68 average annual marketings and 1964–68 highest annual marketings as follows, which are used herein in determining the allotments:

Processor or refiner	Average annual marketings 1964–68		Highest annual marketings 1964–68	
	Short tons raw value	Percent of total	Short tons raw value	Percent of total
	(1)	(2)	(3)	(4)
Central Aguirre Sugar Co., a trust	6,322	4.0956	6,913	4.1519
Central Roig Refining Co	20,781	13.4626	22,508	13.5181
Central San Francisco	1,009	.6536	1,344	.8072
Puerto Rican American Sugar Refinery, Inc	102,301	66.2739	110,769	66.5267
Western Sugar Refining Co	23,948	15.5143	24,969	14.9961
Total	154,361	100.0000	166,503	100.0000

Findings heretofore made by the Secretary in the course of this proceeding (34 F.R. 425) provide that this order shall be revised without further notice or hearing for the purposes indicated above and such findings set forth the procedure for the revision of allotments.

Accordingly, allotments are herein established on the basis of and consistent with such findings.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with paragraph (c) of § 815.10 of this chapter, it is hereby ordered that paragraph (a) of § 815.10 be amended to read as follows:

§ 815.10 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1969.

(a) *Allotments.* The direct-consumption portion of the 1969 mainland sugar quota for Puerto Rico, amounting to 162,000 short tons, raw value, is hereby allotted as follows:

Allottee	*Direct-consumption allotment* (*Short tons, raw value*)
Central Aguirre Sugar Co., a trust	6,679
Central Roig Refining Co	21,851
Central San Francisco	1,183
Puerto Rican American Sugar Refinery, Inc	107,552
Western Sugar Refining Co	24,710
Liquid sugar reserve for persons other than named above	25
Total	162,000

* * * * *

(Secs. 205, 209, 403; 61 Stat. 926 as amended, 928 as amended, 932; 7 U.S.C. 1115, 1119, 1153)

Effective date: Allotments established in this order for all allottees are larger than the allotments established in S.R. 815.10 (34 F.R. 425). To afford adequate opportunity to plan and to market the additional quantities of sugar in an orderly manner, it is imperative that this amendment becomes effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement in 5 U.S.C. 553 is impracticable and contrary to the public interest and, consequently, the amendment made herein shall become effective when published in the FEDERAL REGISTER.

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

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69–5008; Filed, Apr. 25, 1969; 8:48 a.m.]

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

[Lemon Reg. 371]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.671 Lemon Regulation 371.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 22, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period April 27, 1969, through May 3, 1969, are hereby fixed as follows:

(i) District 1: 4,650 cartons;

(ii) District 2: 237,150 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: April 24, 1969.

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

[F.R. Doc. 69-5049; Filed, Apr. 25, 1969; 8:48 a.m.]

[Grapefruit Reg. 62]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.362 Grapefruit Regulation 62.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 23, 1969.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period April 28, 1969 through May 4, 1969, is hereby fixed at 185,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: April 24, 1969.

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

[F.R. Doc. 69-5050; Filed, Apr. 25, 1969; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Texas Flaxseed Bulletin, 1969 Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1969 Texas Flaxseed Purchase Program

PURCHASE PRICE, PREMIUMS, AND DISCOUNTS

A special purchase program has been authorized for 1969 crop flaxseed produced in designated Texas counties. This subpart contains provisions applicable to the 1969 program and together with the provisions contained in CCC Texas Flaxseed Bulletin (26 F.R. 3979, 29 F.R. 6245) constitutes the 1969 Texas Flaxseed Purchase Program.

§ 1421.3101 Purchase prices, premiums, and discounts.

(a) *1969 county purchase prices.* Basic purchase prices per bushel of eligible flaxseed of the 1969 crop which is produced in the counties listed below and which is delivered to authorized dealers under this program for the account of CCC will be at the rate established for the county where the flaxseed is delivered. The basic purchase prices for

flaxseed grading No. 1 and containing from 9.1 to 9.5 percent moisture are as follows:

TEXAS

County	Rate per bushel	County	Rate per bushel
Atascosa	$2.61	Hidalgo	$2.57
Bee	2.70	Jackson	2.61
Bell	2.54	Jim Wells	2.69
Bexar	2.60	Karnes	2.67
Caldwell	2.58	Lamar	2.44
Calhoun	2.63	Live Oak	2.68
Comal	2.58	McMullen	2.63
DeWitt	2.62	Matagorda	2.62
Dimmit	2.50	Nueces	2.72
Duval	2.64	Refugio	2.71
Frio	2.57	San Patricio	2.72
Goliad	2.68	Victoria	2.65
Gonzales	2.60	Wharton	2.64
Guadalupe	2.59	Wilson	2.64

(b) *1969 terminal market purchase prices.* The basic purchase price shall be $2.83 per bushel for flaxseed grading No. 1 and containing from 9.1 to 9.5 percent moisture delivered by rail or truck to authorized dealers at the Corpus Christi and Houston, Tex., terminal markets. There shall be deducted from such rate the transportation cost, if any, as determined by the Kansas City ASCS Commodity Office, for moving the flaxseed to a tidewater facility located within the switching limits of the terminal market to which it was delivered. In determining the purchase price for flaxseed delivered by truck to authorized dealers at such terminal markets, there shall also be deducted from the terminal rate 4.25 cents per bushel.

(c) *Premium for low moisture content.* A premium of 1 cent per bushel shall be applied to eligible flaxseed which grades No. 1 or No. 2 and contains 9.0 percent or less moisture.

(d) *Grade discounts.* The following discounts shall be applied to eligible flaxseed which grades No. 2 or Sample Grade:

(1) No. 2—6 cents per bushel.

(2) Sample Grade—6 cents per bushel plus the following discounts, as applicable:

(i) Moisture:

Percent	Cents
9.6–10.0	1
10.1–10.5	2
10.6–11.0	3
Above 11.0	[1] 3

[1] Plus 1 cent for each 1/10 percent of moisture in excess of 11.0 percent.

(ii) Test weight: 3 cents for each one-half pound or fraction thereof of test weight below 47 pounds.

(iii) Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of flaxseed, such as (but not limited to) heat damage, musty, and sour. Such discounts will be established not later than the time delivery of flaxseed to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at ASCS county offices.

(Sec. 4 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053, 1054, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1447, 1421.)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 21, 1969.

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

[F.R. Doc. 69-4991; Filed, Apr. 25, 1969; 8:46 a.m.]

PART 1434—HONEY

Subpart—Honey Price Support Regulations for 1968 and Subsequent Crops

The regulations issued by the Commodity Credit Corporation, published in 33 F.R. 5203, 5659, 11705, and 34 F.R. 246, and containing the honey price support regulations for 1968 and subsequent crops are hereby revised to incorporate amendments 1 through 3 and are amended to permit heirs of decedent producers to continue or obtain price support loans on the decedents' production on meeting specified conditions, to permit lienholders to continue liens on honey under loan on execution of a subordination agreement, to change the lot sampling requirements, procedures and cost assumption, to require execution of a Purchase Agreement form to be eligible to sell honey to CCC, and to make other minor changes.

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054; 15 U.S.C. 714c; 7 U.S.C. 1446, 1421.

§ 1434.1 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1968 and each subsequent crop of extracted honey for which a price support program is authorized. Price support will be made available through loans on and purchases of eligible honey. Farm storage loans will be evidenced by notes and secured by chattel mortgages. Cooperative (warehouse) storage loans will be evidenced by notes and security agreements and secured by the pledge of warehouse receipts representing eligible honey in approved warehouse storage. The producer may also sell to CCC any or all of his eligible honey which is not security for a price support loan by delivering the honey to CCC. As used in this subpart "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1434.2 Administration.

(a) *Responsibility.* The Farmer Programs Division, ASCS, will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, this subpart will be administered by the various Agricultural Stabilization and Conservation State and County Committees (hereinafter severally called State Committee and county committee), ASCS Commodity Office and the ASCS Data Processing Center.

(b) *Documents.* Any member of the county committee, the county office manager, or other employee of the ASCS county office designated by the county office manager to act in his behalf is authorized to approve documents in accordance with the provisions of this program except where otherwise specified in this subpart. Any such designation shall be in writing and a copy thereof shall be on file in the county office.

(c) *Limitation of authority.* The authority conferred by this subpart to administer the honey price support program does not include authority to modify or waive any of the provisions of this subpart.

(d) *State committee.* The State committee may take any action which is authorized or required by this subpart to be taken by the county committee but which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action which was taken by such county committee but which is not in accordance with this subpart or (2) require a county committee to withhold taking any action which is not in accordance with this subpart.

(e) *Executive Vice President, CCC.* No delegation of authority herein shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under this subpart or

from reversing or modifying any determination made pursuant to a delegation of authority in this subpart.

§ 1434.3 Eligible producers.

(a) *Producer.* An eligible producer shall be a person (i.e., an individual, partnership, association, corporation, estate, trust, or other legal entity) who extracts honey produced by bees owned by him.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustee of a trust estate will be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiary of a trust respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person he represents. Loan or purchase documents executed by such legal representative will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or statute; (2) a guardian has been appointed to manage his property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to Part 1425 of this chapter, to obtain price support on a crop of extracted honey, may obtain price support on eligible production of such crop of the commodity on behalf of its members. A cooperative is not eligible to obtain price support on any quantity of honey produced by a member (1) whose name is entered on a claim control record (indicating the indebtedness of such member) maintained by an ASCS county office, or (2) who owes an installment on a storage facility or drying equipment loan which is due, until the debt then due is paid or the cooperative receives information from the applicable State or county office showing that such debt has been paid. Before tendering any quantity of honey to CCC for price support, the cooperative shall obtain from ASCS State or county offices lists containing the names and the identifying numbers of such persons. For the information of the cooperative, these lists will also contain (3) names of persons having storage facility and drying equipment loan installments which will become due during the period of loan availability, and (4) the dates such installments will become due. The term "producer" as used in this subpart and on applicable price support forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to such an approved cooperative marketing association.

(e) *Approval by county committee.* If a producer has been convicted of a criminal act or has made a misrepresentation in connection with any price support program or has unlawfully disposed of any loan collateral or if the county committee has had difficulty in settling a loan with the producer because of his failure to protect properly the mortgaged honey or for other reasons, the producer may be denied price support until the county committee is satisfied that CCC will be fully protected against any possible loss other than loss assumed by CCC under the regulations in this subpart.

(f) *Joint loans.* Two or more eligible producers may obtain a joint loan on eligible honey produced and extracted by them if stored in the same storage facility. Each producer who obtains a joint loan will be jointly and severally liable for the obligations under the loan documents and this subpart.

§ 1434.4 Eligibility requirements.

(a) *Beneficial interest.* To be eligible for price support, the beneficial interest in the honey must be in the producer tendering it as security for a loan or for purchase and must have always been in him or in him and a former producer whom he succeeded as owner of the bees before the honey was extracted, except that heirs who (1) succeeded to the beneficial interest of a decedent producer, (2) assume the decedent's obligation under a loan if a loan has already been obtained, and (3) assure continued safe storage of the honey, if under farm storage loan, shall be eligible for price support as producers whether such succession occurs before or after extraction of the honey. If price support is made available through an approved cooperative marketing association, the beneficial interest in the honey must always have been in the producer members who delivered the honey to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the honey was extracted, except as provided in the case of heirs of a decedent producer. Honey acquired by a cooperative marketing association shall not be eligible for price support if the producer-members who delivered the honey to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the marketing of the honey as provided in Part 1425 of this chapter.

(b) *Succession of interest.* To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to ownership of the bees which produced the honey shall have been substantially assumed by the person claiming succession. Mere purchase of the honey prior to extraction without acquisition of any additional interest in the production unit shall not constitute succession.

(c) *Doubtful cases.* Any Producer or cooperative in doubt as to whether his interest in the honey complies with the requirements of this section should, before requesting price support, make available to the county committee all pertinent information which will permit a determination to be made by CCC.

§ 1434.5 Filing or recording of chattel mortgages.

(a) *Security.* The county office shall file or record as required by State law all chattel mortgages which cover honey under loan and stored on leased premises as described in § 1434.9(a)(1). As used in this subpart, the term "Chattel Mortgage" means any security instrument which secures a farm storage loan. Where appropriate, the filing or recordation as required by State law may be made by filing a financing statement which describes the identity, quantity, ownership, and location of the honey placed under loan. The cost of filing and recording shall be for the account of CCC.

(b) *Revenue stamps.* A farm storage note and chattel mortgage must have State and documentary revenue stamps affixed thereto when required by law.

(c) *Restrictions in use of agents.* A producer shall not delegate to any person (or his representative) who has any interest in storing, processing, or merchandising honey authority to exercise on behalf of the producer any of the producer's rights or privileges under this program or any loan agreement or other instrument executed in obtaining price support unless the person (or his representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1434.6 Availability, disbursement, and maturity of loans.

(a) *Where to request price support.* A producer shall request price support at the local ASCS county office of the county in which the honey is stored. An approved cooperative marketing association must request price support at the ASCS county office for the county in which the principal office of the cooperative is located unless the State committee designates some other ASCS county office. In the case of an approved cooperative marketing association having operations in two or more States, requests may be made at the county office for the county in which its principal office for each such State is located.

(b) *Availability and maturity date.* The availability and maturity date applicable to loans and purchases will be specified in the annual crop year supplement to the regulations in this subpart, except that whenever the final date of availability or the maturity date falls on a nonworkday for ASCS county offices, the applicable final date shall be extended to include the next work day.

(c) *Disbursement of loans.* Disbursement of loans will be made to producers by means of drafts drawn on CCC or by credit to the producer's account. The producer shall not present the loan document for disbursement unless the honey covered by the mortgage or pledge has been extracted and is in approved storage. If the honey was not either in existence or extracted at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly by the producer.

§ 1434.7 Eligible honey.

Honey must meet the requirements of this section in addition to other applicable eligibility requirements of this subpart and the applicable annual supplement thereto in order to be eligible for a loan or for delivery under a loan or purchase. Honey described in § 1434.8 is not eligible.

(a) *Production.* The honey must have been produced and extracted in the United States by an eligible producer during the calendar year for which price support is requested.

(b) *Floral source.* Honey from the floral sources listed below and honey having similar flavor shall be eligible for price support and shall be classed as follows:

(1) *Table honey.* Table honey means honey having a good flavor of the predominant floral source which can be readily marketed for table use in all parts of the country. Such sources include Alfalfa, Bird's-foot Trefoil, Blackberry, Brazil Brush, Catsclaw, Clover, Cotton, Firewood, Gallberry, Huajillo, Lima Bean, Mesquite, Orange, Raspberry, Sage, Saw Palmetto, Soybean, Sourwood, Star Thistle, Sweetclover, Tupelo, Vetch, Western Wild Buckwheat, Wild Alfalfa, and similar mild flavors, or blends of mild flavored honeys, as determined by the Director, Farmer Programs Division, ASCS.

(2) *Nontable honey.* Nontable honey means honey having a predominant flavor of limited acceptability for table use but which may be considered suitable for table use in areas in which it is produced. Such honeys include those with a predominant flavor of Aster, Avocado, Buckwheat (except Western Wild Buckwheat), Cabbage Palmetto, Dandelion, Eucalyptus, Goldenrod, Heartsease (Smartweed), Horsemint, Mangrove, Manzanita, Mint, Partridge Pea, Rattan Vine, Safflower, Salt Cedar (Tamarix Gallica), Spanish Needle, Spikeweed, Titi-Toyon (Christmas Berry), Tulip-Poplar, Wild Cherry, and similarly flavored honey or blends of such honeys, as determined by the Director, Farmer Programs Division, ASCS.

(c) *Containers.* The honey must be packed in metal containers of a capacity of not less than 5 gallons or greater than 70 gallons and of a style used in normal commercial practice in the honey industry.

(1) *Five-gallon.* The 5-gallon containers must contain approximately 60 pounds of honey and shall be new, clean, sound, uncased, and free from appreciable dents and rust. The handle of each container must be firm and strong enough to permit carrying the filled can. The cover and can opening must not be damaged in any way that will prevent a tight seal. Cans which are punctured or have been punctured and resealed by soldering will not be acceptable.

(2) *Steel drums.* Steel drums must be open-end type, filled to their rated capacities and be new, or used drums which have been reconditioned inside and outside. They must be clean, treated to prevent rusting and fitted with gaskets which provide a tight seal.

§ 1434.8 Ineligible honey.

(a) *Floral source.* Honey from the following floral sources is not eligible for price support regardless of whether it meets other eligibility requirements: Andromeda, Athel, Bitterweed, Broomweed, Cajeput, Carrot, Chinquapin, Dog Fennel, Desert Holly Hock, Gumweed, Mescal, Onion, Prickly Pear, Prune, Queen's Delight, Rabbit Brush, Snowbrush (Ceanothus), Snow-on-the-Mountain, Tarweed, and similar objectionable flavored honey or blends of honey as determined by the Director, Farmer Programs Division, ASCS. If any blends of honey contain such ineligible honey, the lot as a whole shall be considered ineligible for loan or delivery for purchase.

(b) *Contamination or poisonous substances.* Honey which is contaminated or which contains chemicals or other substances poisonous to man or animals is not eligible for price support.

(c) *Containers.* Honey packed in steel drums which have removable liners of polyethylene, or other materials is not eligible for price support regardless of whether it meets other eligibility requirements.

§ 1434.9 Approved storage.

(a) *Loans.* Loans will be made only on honey in approved farm storage or approved cooperative storage as defined in this section.

(1) *Farm storage.* Approved farm storage shall consist of a storage structure located on or off the farm (excluding public or commercial warehouses) which is determined by the county committee to be under the control of the producer and to afford safe storage for honey. Producers may also obtain loans on honey stored on leased space in facilities owned by third parties in which the honey of more than one person is stored if the honey on such leased space to be placed under loan is segregated from all other honey, is identified by markings on each container of honey, and if the segregated quantity of honey is identified by a lot number and the name of the producer as owner thereof. A copy of the lease shall be obtained by the county office before a loan is made. The lease shall authorize the producer and any person having an interest in the honey to enter on the premises to inspect and examine the honey and shall permit a reasonable time to such persons to remove the honey from the premises on its termination.

(2) *Cooperative storage.* Approved cooperative storage shall consist of a storage structure operated by an approved cooperative marketing association as defined in § 1434.3(d) and licensed to store honey under the United States Warehouse Act.

(b) *Segregation of loan collateral.* If the honey in a storage structure secures more than one loan, the honey must be segregated so as to preserve the identity of the honey securing each loan. Honey securing a loan must also be segregated from any nonloan honey in the same structure.

(c) *Purchase.* Purchases will be made by CCC without regard to whether the honey is in approved storage.

§ 1434.10 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC under this program must meet the requirements of the regulations in this subpart and Part 108 of this title.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the approved cooperative marketing association. The receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by a warehouse licensed to store honey under the United States Warehouse Act and represent a lot of extracted honey stored identity preserved. The receipt must be negotiable and must represent eligible honey actually in storage in the warehouse.

§ 1434.11 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC–614, Purchase Agreement; Form CCC–677, Farm Storage Note, Chattel Mortgage, and Security Agreement; Form CCC–678, Warehouse Storage Note and Security Agreement; Form CCC–679, Lien Waiver; Form CCC–681, Authorization for Removal of Farm Stored Collateral; Form CCC–687–1, Approval to Move Loan Collateral; Form CCC–691, Commodity Delivery Notice; Form CCC–692, Settlement Statement; Form CCC–693, Price Support Settlement Intention (Farm Storage); Form CCC–694, Price Support Settlement Intention (Warehouse Storage); and Form CCC–828, List Furnished to Cooperative Associations; and such other forms as may be prescribed by CCC. These forms may be obtained in ASCS State and county offices.

§ 1434.12 Liens.

If there are any liens or encumbrances on the honey, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan or purchase proceeds. Notwithstanding the foregoing provisions, in lieu of waiving his prior lien on honey tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC in the honey subject to the

loan or such other quantity of honey as is delivered in satisfaction of a loan under the provisions of this subpart. No additional liens or encumbrances shall be placed on the honey after the loan is approved.

§ 1434.13 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $4 for each farm storage loan disbursed. An approved cooperative marketing association shall pay a loan service fee of $2 for each cooperative storage loan disbursed. The loan service fee is not refundable.

(b) *Delivery charge.* A delivery charge of 1 cent per hundredweight, in addition to any loan service fee, shall be paid by producers at time of settlement on the quantity of honey acquired by CCC under the loan or purchase.

§ 1434.14 Setoffs.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan out of any amount due the producer under these regulations, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on claims control record.* If a producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the ASCS county claims control record, amounts due the producer under the program provided in this subpart, after deduction of amounts payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1434.15 Determination of quantity.

(a) *For loan purposes.* The estimated quantity of honey placed under loan shall be determined as provided in § 1434.22. The estimate shall be made on the basis of 12 pounds for each gallon of rated capacity of the container.

(b) *At time of acquisition*—(1) *Farm storage.* The quantity of honey acquired by CCC on delivery in liquidation of a loan or delivery for purchase shall be determined by weighing the honey delivered under the direction of the State committee. The quantity of honey acquired in 5-gallon cans shall be determined by using a tare weight of 2.5 pounds for each can. The quantity of honey acquired in 55-gallon drums shall be determined by using a tare weight of 53 pounds for each drum unless the producer can furnish evidence of a lesser tare weight.

(2) *Cooperative storage.* The quantity of honey acquired by CCC in approved cooperative storage in liquidation of a loan or delivery for purchase shall be the net weight shown on the weight certificate accompanying and identified to the warehouse receipt pledged to CCC or representing honey offered to CCC for purchase.

§ 1434.16 Determination of quality.

(a) *Quality for loan*—(1) *Farm storage.* Loans on farm stored honey will be made on the basis of the floral source, color, and class (table or nontable) of the honey as declared and certified by the producer on the Farm Storage Work Sheet at the time the honey is placed under loan.

(2) *Cooperative storage.* Loans on cooperative stored honey will be made on the basis of (i) the class and (ii) the floral source and color of the honey as shown on the Extracted Honey Inspection and Weight Certificate accompanying the warehouse receipt representing such honey.

(b) *Samples for delivery.* When honey is delivered to CCC, its quality and color shall be determined by the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, C&MS, in accordance with U.S. Standards for Grades of Extracted Honey on the basis of samples drawn by ASCS representatives supervising delivery. Samples shall not be drawn until the producer has designated all lots. Single containers shall not be considered as lots unless necessitated by color or floral source. The cost of quality and color determination for a maximum of four lots shall be for the account of CCC.

(c) *Segregation by color.* Table honey shall, insofar as is practicable, be segregated into lots by color to conform with the color categories stated in the crop year supplement. If a lot of honey is not segregated so that it can be certified as one color in accordance with the U.S. Standards for Grades of Extracted Honey, the rate for settlement under a loan or purchase shall be based on the darkest color shown on the inspection certificate: *Provided,* That if the inspection certificate at time of delivery to CCC shows that the lot of honey contains more than two colors and if the number of samples of the darkest color shown on such certificate is not more than one-sixth of the total number of samples, the color for the purpose of settlement shall be the next lighter color.

(d) *Segregation by classes.* If the honey is not segregated so that it can be classified as table honey, the rate for settlement under a loan or purchase shall be based on the support rate for nontable honey.

(e) *Blends.* In the case of blends of table and nontable honeys, the rate for settlement under a loan or purchase shall be based on the support rate for nontable honey.

§ 1434.17 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1434.18 Transfer of producer's interest prohibited.

The producer shall not transfer either his remaining interest in or his right to redeem honey mortgaged as security for a loan, nor shall anyone acquire such interest or right. Subject to the provisions of § 1434.23, a producer who wishes to liquidate all or part of his loan by contracting for the sale of the honey must obtain written prior approval of the county office on a form prescribed by CCC to remove the honey from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers or prospective purchasers at the ASCS county office.

§ 1434.19 Insurance.

CCC will not require the producer to insure the honey placed under a farm stored loan; however, if the producer insures such honey and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its extent of its interest, after first satisfying the producer's equity in the honey involved in the loss.

§ 1434.20 Loss or damage.

The producer is responsible for any loss in quantity or quality or any loss due to change in color of the honey placed under loan. Notwithstanding the foregoing, any such loss arising solely from a physical injury to the honey occurring after disbursement of the loan funds will be assumed by CCC to the extent of the settlement value at the time of destruction of the quantity of the honey destroyed up to a quantity not in excess of that required to secure the outstanding loan (or, if the honey is not destroyed, in an amount equivalent to the extent of the loss as determined by CCC) less any insurance proceeds to which CCC may be entitled and less any salvage value of the honey: *Provided,* That no such loss shall be assumed by CCC unless it is established to its satisfaction that: (a) The loss occurred to the honey without fault, negligence, or conversion on the part of the producer or on the part of any other person having control of the storage structure; (b) the loss resulted solely from an external cause (other than insect infestation, vermin or animals) such as theft, fire, lightning, inherent explosion, windstorm, cyclone, tornado, flood, or other act of God; (c) the producer gave the county office immediate notice of such loss or damage; and (d) the producer made no fraudulent representation in the loan documents or in obtaining the loan.

§ 1434.21 Personal liability of the producer.

(a) *Fraud relating to loans and unlawful disposition.* The making of any fraudulent representation by a producer in the loan documents in obtaining a loan, or in connection with settlement or delivery under a loan, or the unlawful disposition of any portion of the honey by him will render the producer subject to criminal prosecution under Federal law.

If a producer has made any such fraudulent representation or unlawful disposition, the loan shall become payable upon demand and the producer shall be personally liable, aside from any additional liability under criminal and civil frauds statutes, for the amount of the loan, for any additional amount paid to the producer in connection with the honey, and for all costs which CCC would not have incurred had it not been for the producer's fraudulent representation or unlawful disposition, together with interest on such amounts. If a producer has made any such fraudulent representation or any unlawful disposition, the amount for which he shall be credited will be the market value of the honey as determined by CCC on the date of delivery to or removal from storage by CCC, or the sales price if the honey is sold by CCC in order to determine its market value. If the unlawful disposition of loan collateral is determined by CCC not to have been willful conversion, the value of the honey or part thereof delivered to CCC or removed by CCC shall be the same as the settlement value for eligible honey acquired by CCC as provided in this subpart.

(b) *Fraud relating to purchases.* If the producer has made a fraudulent representation in a price support purchase by CCC or in the purchase documents, he shall be personally liable, aside from any additional liability under criminal or civil frauds statutes, for any loss which CCC sustains upon the honey delivered under the purchase. For the purpose of this program, such loss shall be deemed to be the price paid to the producer on the honey delivered under the purchase plus all costs sustained by CCC in connection with the honey together with interest on such amounts, less the market value, as determined by CCC, as of the close of the market on the date of delivery, or the net sales price of the honey if the honey is sold in order to determine its market value.

(c) *Overdisbursement.* If the amount disbursed under a loan or purchase exceeds the price support value of the honey upon settlement determined as authorized under this subpart, the producer shall be personally liable for repayment of the amount of such excess.

(d) *Contamination or poisonous substances.* A producer shall be personally liable for any damages resulting from delivery to CCC of contaminated honey or honey containing chemicals or other substances poisonous to man or animals.

(e) *Joint loans.* In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note.

§ 1434.22 Quantity for loan.

(a) *Farm storage.* Loans shall be made on not more than 90 percent (hereinafter called "loan percentage") of the estimated quantity of eligible honey stored in an approved farm storage to be covered by the chattel mortgage. The State committee may establish a lower loan percentage on a statewide basis or for specified areas within the State. In establishing a loan percentage lower than the maximum loan percentage, the State committee shall consider the following factors: (1) General crop conditions, (2) factors affecting quality peculiar to an area or State, and (3) climatic conditions affecting storability. A new loan percentage shall apply only to new loans and not to loans already made. The loan percentage established by the State committee may be lowered by the county committee on an individual producer basis when determined to be necessary in order to provide CCC with adequate protection. Factors to be considered by the county committee are: (i) Condition or suitability of the storage structure, (ii) condition of the honey, (iii) hazardous location of the storage structure, such as a location which exposes the structure to danger of hazards of flood, fire, and theft (when the percentage is lowered for one or more of these hazards, the producer shall be notified in writing that CCC will not assume any loss or damage to the loan collateral resulting from the particular hazards to which the structure was exposed), (iv) disagreement on the estimated quantity, (v) producers who have been approved under § 1434.3(e), and (vi) factors peculiar to individual farms or producers as reported by the commodity loan inspector or as known to the county office which relate to the preservation or safety of the loan collateral. Farm storage loans may be made on less than the maximum quantity eligible for loan at the producer's request. In any event, the chattel mortgage shall cover all the honey in the lot in which the honey on which the loan is made is stored.

(b) *Cooperative storage.* The amount of a loan on the quantity of eligible honey stored in a licensed warehouse operated by an approved cooperative shall be based on a percentage, as determined by the State committee, of the net weight specified on the warehouse receipt representing the honey offered as security for the loan. Such percentage shall not exceed 95 percent of the weight so specified.

§ 1434.23 Release of the honey under loan.

(a) *Obtaining release—farm storage.* A producer shall not remove honey covered by a chattel mortgage until he has received prior approval in writing from the county committee. A producer may, at any time, obtain release of all or part of the honey remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of honey released plus interest. When the proceeds of a sale of honey are needed to repay all or part of the loan, see § 1434.18.

(b) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county office manager shall release the chattel mortgage.

(c) *Obtaining release—Cooperative storage.* A cooperative may arrange with the county office for release of all or part of the honey under a cooperative storage loan on or prior to maturity by repayment of the amount of the loan with respect to the quantity of the honey to be released plus interest. Each partial release must cover all of the honey represented by one warehouse receipt.

§ 1434.24 Liquidation of loans.

(a) *General.* Except with respect to the loss or damage CCC will assume under § 1434.20, the producer is required to pay off his loan or deliver to CCC a sufficient quantity of eligible honey having a price support value equal to the outstanding balance of the loan. Deliveries may be either of the identical honey which is subject to the chattel mortgage or of other honey of his production and extraction eligible for price support and shall be made in accordance with written instructions issued by the county office which shall set forth the time and place of delivery. In making delivery in liquidation of the loan, any quantity of eligible honey delivered in excess of the quantity necessary to settle the amount due on the loan may be delivered to CCC notwithstanding the provisions of § 1434.25 and settlement shall be made under § 1434.26. Delivery points shall be limited to those approved by the Minneapolis ASCS Commodity Office.

(b) *Notice to county committee.* If the producer desires to deliver the honey to CCC, he must give the county committee notice in writing of his intention to do so within a reasonable time prior to the applicable loan maturity date.

(c) *Honey going out of condition.* If, prior to delivery to CCC, the honey is going out of condition, the producer shall so notify the county office and confirm such notice in writing. If the county committee determines that the honey is going out of condition or is in danger of going out of condition and that the honey cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall arrange for an inspection and grade and quality determination. When delivery is completed, settlement shall be made subject to the provisions of § 1434.20 on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, for the quantity actually delivered.

(d) *Delivery before maturity date.* When considered necessary to protect the interest of CCC or when requested by the producer, the county committee may call the loan and accept delivery of the honey prior to the loan maturity date.

(e) *Storage deduction for early delivery.* If the loan maturity date is accelerated upon request of the producer and the acceleration is approved by CCC, the settlement value of the honey shall be reduced by one-twentieth of a cent per pound per month or fraction thereof, from the date delivery is accomplished, or from the final date for delivery shown in the delivery instructions, whichever is

earlier, to and including the original loan maturity date.

§ 1434.25 Purchases from producers.

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of his eligible honey which is not mortgaged to CCC under a loan: *Provided,* That he executes and delivers to the county office prior to the maturity date a Purchase Agreement (Form CCC-614) indicating the approximate quantity of honey he will sell to CCC. The producer is not obligated, however, to complete the sale by delivery of any quantity of his honey to CCC. Delivery points for honey under purchase shall be limited to those approved by the Commodity Office.

(b) *Delivery period.* The producer desiring to complete the sale of any quantity of honey subject to a purchase agreement must make delivery of the honey within the period of time, after the honey price support loan maturity date shown in the applicable crop supplement, specified in delivery instructions issued by the county office. Delivery shall be made to the location specified in such instructions. Notwithstanding any other provisions of this § 1434.25, in the case of eligible honey not under loan, the county committee may, on request of a producer, purchase and accept delivery of such eligible honey prior to loan maturity date. In the event of such purchase and delivery, the settlement value of the honey shall be reduced as provided in paragraph (e) of § 1434.24.

§ 1434.26 Settlement.

(a) *General.* Except as provided in §§ 1434.20 and 1434.21 and paragraph (b) of this section, settlement with the producer for eligible honey acquired by CCC under loan or purchase will be made on the basis of the quantity, class, quality, and color of such honey as provided in this section and other applicable provisions of this subpart. The settlement value of honey shall be the product of the support rate for the class, grade, quality, and color times the quantity acquired at the time of settlement adjusted by the discounts contained in the crop supplement. The support rate per pound of honey at which settlement will be made shall be the rate for the State where the producer obtained price support.

(b) *Ineligible honey inadvertently accepted by CCC.* If ineligible honey is inadvertently accepted by CCC, the settlement value shall be the market value as of the date of delivery as determined by CCC. The provisions of § 1434.21 shall be applicable to settlement on ineligible honey where there has been a fraudulent representation on the part of the producer.

(c) *Payments of amount due producer.* If the settlement value of the honey delivered exceeds the amount due on the loan (excluding interest), such excess amount shall be paid to the producer. Any payment due the producer on either a loan or purchase will be made by draft drawn on CCC by the county office.

(d) *Payment of deficiency by producer.* If the settlement value of the honey is less than the amount due on the loan (excluding interest), the amount of any deficiency plus interest thereon shall be paid to CCC. If it is not promptly paid, CCC may, in addition to any of its other rights, satisfy the amount of such deficiency plus interest out of any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

(e) *Storage where CCC is unable to take delivery.* A producer may be required to retain the honey under loan or for sale to CCC for 60 days after the loan maturity date without any cost to CCC. However, if CCC is unable to take delivery of the honey within the 60-day period after the loan maturity date, the producer shall be paid a storage payment upon delivery of the honey to CCC. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after such maturity date and extend through the earlier of: (1) The final date of delivery, or (2) the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the storage rate stated in the applicable CCC storage agreement for honey in effect at the delivery point where he delivers.

§ 1434.27 Foreclosure.

(a) *Removal from storage.* If the loan indebtedness (i.e., the unpaid amount of the note, interest and charges) is not satisfied upon maturity of the note, CCC may remove the honey from storage, and assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine, at public or private sale. Any such disposition may similarly be effected without the prior removal of the honey from storage. The honey may be processed before sale. CCC may become the purchaser of the whole or any part of the honey hereunder at either a public or private sale.

(b) *When CCC takes title to honey.* Upon maturity and nonpayment of the producer's note, at CCC's election, title to all or any part of the unredeemed honey securing the note as CCC may designate shall, without a sale thereof, immediately vest in CCC. Whenever CCC acquires title to the unredeemed honey, CCC shall have no obligation to pay for any market value which such honey may have in excess of the loan indebtedness.

(c) *Payments to producer.* Nothing herein shall preclude the making of the following payments to the producer or to his personal representative or heirs who meet the conditions set forth in § 1434.4, without right of assignment to or substitution of any other party: (1) Any amount by which the settlement value of the collateral honey exceeds the principal amount of the loan, or (2) the amount by which the proceeds of sale exceed the loan indebtedness including interest and charges if the collateral honey is sold to third persons as provided in paragraph (a) of this section instead of full title to such collateral honey being acquired by CCC as provided in paragraph (b) of this section.

(d) *Honey sold at less than amount due on loan.* If honey is removed from storage by CCC and is sold pursuant to paragraph (a) of this section at less than the amount due on the loan (excluding interest), the producer shall pay CCC the amount by which the settlement value (or, if higher, the sales proceeds) of the honey removed by CCC is less than the amount of the loan, plus interest on the amount of such deficiency. The amount of the deficiency may be set off against any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture, or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

§ 1434.28 Charges not to be assumed by CCC.

CCC will not assume any charges for insurance, storage, or handling or processing.

§ 1434.29 Handling payments and collections not exceeding $3.

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1434.30 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any producer who is entitled to the payment of any sum under a loan or purchase, payment of such sum upon proper application to the office of the county committee which made the loan shall be made to the persons who would be entitled to such producer's payment under the regulations contained in Chapter VII, Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture, of this title (Payments of Amounts Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent).

§ 1434.31 ASCS Commodity Office and Data Processing Center.

The Minneapolis ASCS Commodity Office serves all States for honey. Accounting, recording, and reporting for all States will be handled through the Data Processing Center, Post Office Box 205, Kansas City, Mo. 64141.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on April 21, 1969.

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

[F.R. Doc. 69-4990; Filed, Apr. 25, 1969; 8:46 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 1—STATEMENT OF ORGANIZATION, DELEGATIONS AND GENERAL INFORMATION

Commission Seal and Flag

The official AEC seal was established by the Commission on March 6, 1957, pursuant to authority contained in section 21 of the Atomic Energy Act of 1954, 42 U.S.C. 2031. Notice of adoption of a seal, together with a description of the seal, was published in the FEDERAL REGISTER on March 19, 1957 (22 F.R. 1744), and is codified in 10 CFR § 1.260. The Commission has adopted an amendment of 10 CFR Part 1, "Statement of Organization, Delegations, and General Information," to establish criteria for use of the seal. The Commission has also adopted criteria for use of the AEC flag, to be incorporated in 10 CFR Part 1.

Because this amendment relates to AEC management and to public property, as described in section 4(2) of the Administrative Procedure Act of 1946, as amended, 5 U.S.C. section 553(a)(2), the Commission has found that general notice of proposed rule making and public procedure thereon are not required and that good cause exists why this amendment should be made effective immediately without the customary period of prior notice.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, the following amendment of 10 CFR Part 1 is published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER.

10 CFR Part 1, Subpart F, is amended to read as follows:

Subpart F—Seal and Flag

Sec.
1.260 Establishment of the AEC seal.
1.261 Custody of the AEC seal.
1.262 Use of the AEC seal, or replicas thereof.
1.263 Establishment of the official AEC flag.
1.264 Use of the AEC flag.
1.265 Compliance and enforcement.
1.266 Illustration of AEC seal.

AUTHORITY: The provisions of this Subpart F issued under sec. 21, 68 Stat. 924; 42 U.S.C. 2031; sec. 161, 68 Stat. 948; 42 U.S.C. 2201.

Subpart F—Seal and Flag

§ 1.260 Establishment of the AEC seal.

Pursuant to the Atomic Energy Act of 1954, as amended, the Commission has adopted an official seal the design and description of which follows:

On a dark blue disk, a stylized atomic symbol consisting of the nucleus, in orange red, surrounded by four electrons tracing their orbit in gold. On a light blue annulet edged in gold the inscription "ATOMIC ENERGY COMMISSION" in upper portion. In lower portion, "UNITED STATES OF AMERICA." A five-pointed gold star appears between the words "ATOMIC" and "UNITED" and another between the words "COMMISSION" and "AMERICA".

The Official Seal is illustrated in § 1.266.

§ 1.261 Custody of the AEC seal.

The Secretary shall be responsible for custody of the AEC impression seals and of replica (plaque) seals.

§ 1.262 Use of the AEC seal, or replicas thereof.

(a) The use of the AEC seal or replicas thereof is restricted to the following:

(1) AEC letterhead stationery.

(2) AEC award certificates and medals.

(3) Security credentials and employee identification cards.

(4) AEC documents. These documents include, without limitation, agreements with States, interagency or intergovernmental agreements, foreign patent applications, certifications, special reports to the President and Congress and, at the discretion of the Secretary, other documents as he finds appropriate.

(5) Plaques. The design of the seal may be incorporated in plaques for display in Commission auditoriums, presentation rooms, lobbies, offices of senior officials, on the fronts of buildings occupied by AEC and in other appropriate locations at the discretion of the Secretary.

(6) The AEC flag (which incorporates the design of the seal).

(7) Official films prepared by or for the Commission, which the Director, Division of Public Information or his designee determines warrant such identification.

(8) Official AEC publications which represent the achievements or mission of AEC as a whole or which are sponsored by AEC and other Government departments or agencies.

(9) Such other uses as the Secretary or his designee finds appropriate.

(b) Any use of the AEC seal or replicas thereof other than as permitted by this section is prohibited.

(c) Any person who uses the official AEC seal in a manner other than as permitted by this section shall be subject to the provisions of 18 U.S.C. 1017, which provides penalties for the wrongful use of an official seal, and other provisions of law as applicable.

§ 1.263 Establishment of the official AEC flag.

The official AEC flag is based on the design of the seal and was designed by the Heraldry Branch of the Office of the Quartermaster General in April 1957. The AEC flag is 4 feet 2 inches by 5 feet 6 inches in size with a 38-inch diameter AEC seal incorporated in the center of a white field and with a yellow fringe. (Reference: Army QMG Dwg. 5-1-230, Nov. 28, 1956.)

§ 1.264 Use of the AEC flag.

(a) The use of the AEC flag is restricted to the following:

(1) On or in front of AEC installation buildings.

(2) At AEC ceremonies.

(3) At conferences involving official AEC participation (including permanent display in AEC conference rooms).

(4) At governmental or public appearances of AEC executives.

(5) In private offices of senior officials.

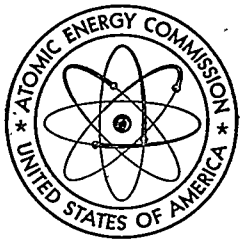
(6) As otherwise authorized by the Secretary.

(b) The AEC flag must always be displayed with the U.S. flag. When the U.S. flag and the AEC flag are displayed on a speaker's platform in an auditorium, the U.S. flag must occupy the position of honor and be placed at the AEC representative's right as he faces the audience and the AEC flag must be placed at his left.

§ 1.265 Compliance and enforcement.

In order to insure adherence to the authorized uses of the AEC seal and flag as provided herein, a report of each suspected violation of this part or questionable use of the AEC seal or flag should be submitted to the Secretary.

§ 1.266 Illustration of the AEC seal.



Dated at Washington, D.C., this 23d day of April 1969.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 69-4992; Filed, Apr. 25, 1969; 8:45 a.m.]

PART 115—PROCEDURE FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

Contents of Applications

On April 3, 1969, F.R. Doc. 69-3852 was published in the FEDERAL REGISTER (34 F.R. 6036), amending, among other things, the Atomic Energy Commission's regulation 10 CFR Part 115. In paragraph 6 of the amendments, the section being amended by deletion of paragraph (e) was erroneously referred to as § 115.23 rather than § 115.22. Accordingly, the text of paragraphs 6 and 7 in F.R. Doc. 69-3852 is amended to read as follows:

§ 115.22 [Amended]

6. Paragraph (e) of § 115.22 is deleted.

7. A new paragraph (j) is added to § 115.23 to read as follows:

§ 115.23 Contents of applications: technical information safety analysis report.

Each application shall state the following technical information:

* * * * *

(j) The technical qualifications of the applicant to engage in the proposed activities.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 22d day of April 1969.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 69-4973; Filed, Apr. 25, 1969; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Subpart J—Procedures, Payment of Benefits, and Disqualification of Representatives

On January 7, 1969, there was published in the FEDERAL REGISTER (34 F.R. 207) a notice of proposed rule making with proposed amendments to the Federal Old-Age, Survivors, and Disability Insurance regulations relating to the procedures concerning the suspension or disqualification of individuals from acting as representatives of claimants in proceedings before the Secretary affecting matters within the jurisdiction of the Social Security Administration. Interested persons were given the opportunity to submit written comments, views, or objections with regard to the proposed regulations. No comments or objections have been received and the proposed regulations are hereby adopted without significant change and are set forth below.

(Secs. 205, 206, 1102, and 1872, 53 Stat. 1368, as amended, 53 Stat. 1372, as amended, 49 Stat. 647, as amended, 79 Stat. 332; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 406, 1302, and 1395ii)

Effective date. These regulations shall be effective upon publication in the FEDERAL REGISTER.

Dated: March 20, 1969.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: April 22, 1969.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

Subpart J—Procedures, Payment of Benefits, and Representation of Parties

Regulations No. 4, as amended, of the Social Security Administration (20 CFR 404.1 et seq.) are further amended as follows:

1. Section 404.906, paragraph (g), is added to read as follows:

§ 404.906 Administrative actions which are not initial determinations.

* * * * *

(g) The disqualification or suspension of an individual from acting as a representative in a proceeding before the Social Security Administration (see § 404.979).

2. Sections 404.979, 404.980, and 404.981 are amended to read as follows:

§ 404.979 Disqualification or suspension of an individual from acting as a representative in proceedings before the Social Security Administration.

Whenever it appears that an individual has violated any of the rules in § 404.978, or has been convicted of a violation under section 206 of the Social Security Act, or has otherwise refused to comply with the Secretary's rules and regulations governing representation of claimants before the Social Security Administration, the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance may institute proceedings as herein provided to suspend or disqualify such individual from acting as a representative in proceedings before the Administration.

§ 404.980 Notice of charges.

The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance will prepare a notice containing a statement of charges that constitutes the basis for the preceeding against the individual. This notice will be delivered to the individual charged, either by certified or registered mail to his last known address or by personal delivery, and will advise the individual charged to file an answer, within 30 days from the date the notice was mailed, or was delivered to him personally, indicating why he should not be suspended or disqualified from acting as a representative before the Social Security Administration. This 30-day period may be extended for good cause shown, by the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance. The answer must be in writing under oath (or affirmation) and filed with the Social Security Administration, Bureau of Hearings and Appeals, P.O. Box 2518, Washington, D.C. 20013, with a copy to the Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Md. 21235, within the prescribed time limitation. If an individual charged does not file an answer within the time prescribed, he shall not have the right to present evidence. However, see § 404.983(f) relating to statements with respect to sufficiency of the evidence upon which the charges are based or challenging the validity of the proceedings.

§ 404.981 Withdrawal of charges.

If an answer is filed or evidence is obtained that establishes, to the satisfaction of the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, that reasonable doubt exists about whether the individual charged should be suspended or disqualified from acting as a representative before the Social Security Administration, the charges may be withdrawn. The notice of withdrawal shall be mailed to the individual charged at his last known address.

3. Sections 404.982 through 404.990 are added to read as follows:

§ 404.982 Referral to Bureau of Hearings and Appeals for hearing and decision.

If action is not taken to withdraw the charges before the expiration of 15 days after the time within which an answer may be filed, the record of the evidence in support of the charges shall be referred to the Bureau of Hearings and Appeals with a request for a hearing and a decision on the charges.

§ 404.983 Hearing on charges.

(a) *Hearing officer.* Upon receipt of the notice of charges, the record, and the request for hearing (see § 404.982), the Director, Bureau of Hearings and Appeals, or his delegate shall designate a hearing examiner to act as a hearing officer to hold a hearing on the charges. No hearing officer shall conduct a hearing in a case in which he is prejudiced or partial with respect to any party, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party to the hearing may have to the hearing officer who has been designated to conduct the hearing shall be made at the earliest opportunity. The hearing officer shall consider the objection(s) and shall, in his discretion, either proceed with the hearing or withdraw. If the hearing officer withdraws, another hearing officer shall be designated as provided in this section to conduct the hearing. If the hearing officer does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council as reason why he believes the hearing officer's decision should be revised or a new hearing held before another hearing officer.

(b) *Time and place of hearing.* The hearing officer shall notify the individual charged and the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, of the time and place for a hearing on the charges. The notice of the hearing shall be mailed to the individual charged at his last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, not less than 20 days prior to the date fixed for the hearing.

(c) *Change of time and place for hearing.* The hearing officer may change the time and place for the hearing (see paragraph (b) of this section) either on his own motion or at the request of a party for good cause shown. The hearing officer may adjourn or postpone the hearing, or he may reopen the hearing.

for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case (see § 404.984). Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or reopening of the hearing.

(d) *Parties.* A person against whom charges have been preferred under the provisions of § 404.979 shall be a party to the hearing. The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, shall also be a party to the hearing.

(e) *Subpoenas.* Any party to the hearing may request the hearing officer or a member of the Appeals Council to issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. The hearing officer may on his own motion issue subpoenas for the same purposes when he deems such action reasonably necessary for the full presentation of the facts. Any party who desires the issuance of a subpoena shall, not less than 5 days prior to the time fixed for the hearing, file with the hearing officer a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witness or document and whether such facts could be established by other evidence without the use of a subpoena. Subpoenas, as provided for above, shall be issued in the name of the Secretary of Health, Education, and Welfare, and the Social Security Administration shall pay the cost of the issuance and the fees and mileage of any witness so subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* The hearing shall be open to the parties and to such other persons as the hearing officer or the individual charged deems necessary or proper. The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters: *Provided, however,* That if the individual charged has filed no answer he shall have no right to present evidence but in the discretion of the hearing officer may appear for the purpose of presenting a statement of his contentions with regard to the sufficiency of the evidence or the validity of the proceedings upon which his suspension or disqualification, if it occurred, would be predicated or, in his discretion, the hearing officer may make or recommend a decision (see § 404.984) on the basis of the record referred in accordance with § 404.982. If the individual has filed an answer and if the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing officer may at any time prior to the mailing of notice of the decision, or submittal of a recommended decision, reopen the hearing for the receipt of such evidence. The order in which the evidence and the allegations shall be presented and the conduct of the hearing shall be at the discretion of the hearing officer.

(g) *Evidence.* Evidence may be received at the hearing, subject to the provisions herein, even though inadmissible under the rules of evidence applicable to court procedure. The hearing officer shall rule on the admissibility of evidence.

(h) *Witnesses.* Witnesses at the hearing shall testify under oath or affirmation. The witnesses of a party may be examined by such party or by his representative, subject to interrogation by the other party or by his representative. The hearing officer may ask such questions as he deems necessary. He shall rule upon any objection made by either party as to the propriety of any question.

(i) *Oral and written summation.* The parties shall be given, upon request, a reasonable time for the presentation of an oral summation and for the filing of briefs or other written statements of proposed findings of fact and conclusions of law. Copies of such briefs or other written statements shall be filed in sufficient number that they may be made available to any party in interest requesting a copy and to any other party designated by the Appeals Council.

(j) *Record of hearing.* A complete record of the proceedings at the hearing shall be made and transcribed in all cases.

(k) *Representation.* The individual charged may appear in person and he may be represented by counsel or other representative.

(l) *Failure to appear.* If after due notice of the time and place for the hearing, a party to the hearing fails to appear and fails to show good cause as to why he could not appear, such party shall be considered to have waived his right to be present at the hearing. The hearing officer may hold the hearing so that the party present may offer evidence to sustain or rebut the charges.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the individual charged.

(n) *Cost of transcript.* On the request of a party, a transcript of the hearing before the hearing officer will be prepared and sent to the requesting party upon the payment of cost, or if the cost is not readily determinable, the estimated amount thereof, unless for good cause such payment is waived.

§ 404.984 Decision by hearing officer.

(a) *General.* As soon as practicable after the close of the hearing, the hearing officer shall issue a decision (or certify the case with a recommended decision to the Appeals Council for decision under the rules and procedures described in §§ 404.942 through 404.944) which shall be in writing and contain findings of fact and conclusions of law. The decision shall be based upon the evidence of record. If the hearing officer finds that the charges have been sustained, he shall either

(1) Suspend the individual for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision, or

(2) Disqualify the individual from further practice before the Administration until such time as the individual may be reinstated under § 404.990.

A copy of the decision shall be mailed to the individual charged at his last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, together with notice of the right of either party to request the Appeals Council to review the decision of the hearing officer.

(b) *Effect of hearing officer's decision.* The hearing officer's decision shall be final and binding unless reversed or modified by the Appeals Council upon review (see § 404.988).

(1) If the final decision is that the individual is disqualified from practice before the Social Security Administration, he shall not be permitted to represent an individual in a proceeding before the Administration until authorized to do so under the provisions of § 404.990.

(2) If the final decision suspends the individual for a specified period of time, he shall not be permitted to represent an individual in a proceeding before the Social Security Administration during the period of suspension unless authorized to do so under the provisions of § 404.990.

§ 404.985 Right to request review of the hearing officer's decision.

(a) *General.* After the hearing officer has issued a decision, either of the parties (see § 404.983) may request the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The request for review shall be made in writing and filed with the Appeals Council within 30 days from the date of mailing the notice of the hearing officer's decision, except where the time is extended for good cause. The requesting party shall certify that a copy of the request for review and of any documents that are submitted therewith (see § 404.986) have been mailed to the opposing party.

§ 404.986 Procedure before Appeals Council on review of hearing officer's decision.

The parties shall be given, upon request, a reasonable time to file briefs or other written statements as to fact and law and to appear before the Appeals Council for the purpose of presenting oral argument. Any brief or other written statement of contentions shall be filed with the Appeals Council, and the presenting party shall certify that a copy has been mailed to the opposing party.

§ 404.987 Evidence admissible on review.

(a) *General.* Evidence in addition to that introduced at the hearing before the hearing officer may not be admitted

except where it appears to the Appeals Council that the evidence is relevant and material to an issue before it and subject to the provisions in this section.

(b) *Individual charged filed answer.* Where it appears to the Appeals Council that additional relevant material is available and the individual charged filed an answer to the charges (see § 404.980), the Appeals Council shall require the production of such evidence and may designate a hearing officer or member of the Appeals Council to receive such evidence. Before additional evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, and each party shall be given a reasonable opportunity to comment on such evidence and to present other evidence which is relevant and material to the issues unless such notice is waived.

(c) *Individual charged did not file answer.* Where the individual charged filed no answer to the charges (see § 404.980), evidence in addition to that introduced at the hearing before the hearing officer may not be admitted by the Appeals Council.

§ 404.988 Decision by Appeals Council on review of hearing officer's decision.

The decision of the Appeals Council shall be based upon evidence received into the hearing record (see § 404.983 (f)) and such further evidence as the Appeals Council may receive (see § 404.987) and shall either affirm, reverse, or modify the hearing officer's decision. The Appeals Council, in modifying a hearing officer's decision suspending the individual for a specified period shall in no event reduce a period of suspension to less than 1 year, or in modifying a hearing officer's decision to disqualify an individual shall in no event impose a period of suspension of less than 1 year. Where the Appeals Council affirms or modifies a hearing officer's decision, the period of suspension or disqualification shall be effective from the date of the Appeals Council's decision. Where a period of suspension or disqualification is initially imposed by the Appeals Council, such suspension or disqualification shall be effective from the date of the Appeals Council's decision. The decision of the Appeals Council will be in writing and a copy of the decision will be mailed to the individual at his last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

§ 404.989 Dismissal by Appeals Council.

The Appeals Council may dismiss a request for the review of any proceedings instituted under § 404.979 pending before it in any of the following circumstances:

(a) *Upon request of party.* Proceedings pending before the Appeals Council may be discontinued and dismissed upon written application of the party or parties who filed the request for review provided there is no party who objects to discontinuance and dismissal.

(b) *Death of party.* Proceedings before the Appeals Council may be dismissed upon death of a party against whom charges have been preferred.

(c) *Request for review not timely filed.* A request for review of a hearing officer's decision shall be dismissed when the party has failed to file a request for review within the time specified in § 404.985 and such time is not extended for good cause.

§ 404.990 Reinstatement after suspension or disqualification.

(a) *General.* An individual shall be automatically reinstated to serve as a representative before the Social Security Administration at the expiration of any period of suspension. In addition, after 1 year from the effective date of any suspension or disqualification, an individual who has been suspended or disqualified from acting as a representative in proceedings before the Social Security Administration may petition the Appeals Council for reinstatement prior to the expiration of a period of suspension or following a disqualification order. The petition for reinstatement shall be accompanied by any evidence the individual wishes to submit. The Appeals Council shall notify the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, of the receipt of the petition and grant him 30 days in which to present a written report of any experiences which the Administration may have had with the suspended or disqualified individual during the period subsequent to the suspension or disqualification. A copy of any such report shall be made available to the suspended or disqualified individual.

(b) *Basis of action.* A request for revocation of a suspension or a disqualification shall not be granted unless the Appeals Council is reasonably satisfied that the petitioner is not likely in the future to conduct himself contrary to the provisions of section 206(a) of the Social Security Act or the rules and regulations of the Social Security Administration.

(c) *Notice.* Notice of the decision on the request for reinstatement shall be mailed to the petitioner and a copy shall be mailed to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

(d) *Effect of denial.* If a petition for reinstatement is denied, a subsequent petition for reinstatement shall not be considered prior to the expiration of 1 year from the date of notice of the previous denial.

[F.R. Doc. 69-4997; Filed, Apr. 25, 1969; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart F—Listing of Color Additives for Drug Use Exempt From Certification

Subpart H—Listing of Color Additives for Cosmetic Use Exempt From Certification

POTASSIUM SODIUM COPPER CHLOROPHYLLIN (CHLOROPHYLLIN-COPPER COMPLEX); LISTING FOR DRUG AND COSMETIC USE EXEMPT FROM CERTIFICATION

The Commissioner of Food and Drugs, based on consideration given a petition (CAP 77) filed by Colgate-Palmolive Co., 300 Park Avenue, New York, N.Y. 10022, and other relevant material, finds that potassium sodium copper chlorophyllin (chlorophyllin-copper complex) is safe for use in or on drugs and cosmetics under the conditions prescribed in this order and that certification is not necessary for the protection of the public health. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c)(2), (d), 74 Stat. 399–403; 21 U.S.C. 376 (b), (c)(2), (d)) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That Part 8 be amended by adding § 8.6014 to Subpart F and § 8.8004 to Subpart H, as follows:

§ 8.6014 Potassium sodium copper chlorophyllin (chlorophyllin-copper complex).

(a) *Identity.* (1) The color additive potassium sodium copper chlorophyllin is a green to black powder obtained from chlorophyll by replacing the methyl and phytyl ester groups with alkali and replacing the magnesium with copper. The source of the chlorophyll is dehydrated alfalfa.

(2) Color additive mixtures for drug use made with potassium sodium copper chlorophyllin may contain only those diluents that are suitable and that are listed in this subpart as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Potassium sodium copper chlorophyllin shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Moisture, not more than 5.0 percent.
Nitrogen, not more than 5.0 percent.
pH of 1 percent solution, 9 to 11.
Total copper, not less than 4 percent and not more than 6 percent.
Free copper, not more than 0.25 percent.
Iron, not more than 0.5 percent.

Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 5 parts per million.
Ratio, absorbance at 405 mμ to absorbance at 730 mμ, not less than 3.4 and not more than 3.9.
Total color, not less than 75 percent.

(c) *Uses and restrictions.* Potassium sodium copper chlorophyllin may be safely used for coloring dentifrices that are drugs at a level not to exceed 0.1 percent. Authorization for this use shall not be construed as waiving any of the requirements of section 505 of the act with respect to the drug in which it is used.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

§ 8.3004 Potassium sodium copper chlorophyllin (chlorophyllin-copper complex).

(a) *Identity and specifications.* The color additive potassium sodium copper chlorophyllin shall conform in identity and specifications to the requirements of § 8.6014 (a) (1) and (b).

(b) *Uses and restrictions.* Potassium sodium copper chlorophyllin may be safely used for coloring dentifrices that are cosmetics subject to the following conditions:

(1) It shall not be used at a level in excess of 0.1 percent.

(2) It may be used only in combination with the following substances:

Water.
Glycerin.
Sodium carboxymethylcellulose.
Tetrasodium pyrophosphate.
Sorbitol.
Magnesium phosphate, tribasic.
Calcium carbonate.
Calcium phosphate, dibasic.
Sodium *N*-lauroyl sarcosinate.
Artificial sweeteners that are generally recognized as safe or that are authorized under Part 121 of this chapter.
Flavors that are generally recognized as safe or that are authorized under Part 121 of this chapter.
Preservatives that are generally recognized as safe or that are authorized under Part 121 of this chapter.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 8.32.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c) (2), (d), 74 Stat. 399–403; 21 U.S.C. 376 (b), (c) (2), (d))

Dated: April 21, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69–4974; Filed, Apr. 25, 1969; 8:45 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-2-Pyrazinyl Phosphorothioate

A petition (PP 9F0777) was filed with the Food and Drug Administration by American Cyanamid Co., Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for negligible residues of the insecticide *O,O*-diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog diethyl 2-pyrazinyl phosphate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, mint, and strawberries at 0.1 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that:

1. The tolerances established by this order will protect the public health.

2. The insecticide and its oxygen analog should be added to the list of members of the class of cholinesterase-inhibiting pesticides.

3. Tolerances are unnecessary regarding meat or milk since the proposed usage is not reasonably expected to result in residues of the insecticide or its oxygen analog occurring in these commodities. The usage is classified in the category specified in § 120.6(a) (3).

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. By alphabetically inserting two new items in § 120.3(e) (5), as follows:

§ 120.3 Tolerances for related pesticide chemicals.

* * * * * *

(e) * * *
(5) * * *

Diethyl 2-pyrazinyl phosphate.
O,O-Diethyl *O*-2-pyrazinyl phosphorothioate.

* * * * * *

2. By adding a new section to Subpart C, as follows:

§ 120.264 *O,O*-Diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the insecticide *O,O*-diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog diethyl 2-pyrazinyl phosphate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, mint, and strawberries.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2))

Dated: April 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69–4975; Filed, Apr. 25, 1969; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

Subpart D—Food Additives Permitted in Food for Human Consumption

BUQUINOLATE

§ 121.291 [Amended]

A. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by The Norwich Pharmacal Co., Post Office Box 191,

Norwich, N.Y. 13815, and other relevant material, concludes that § 121.191, the food additive regulation for buquinolate, should be amended by deleting the 24-hour withdrawal period limitation. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.291 *Buquinolate* is amended in the table in paragraph (a) by deleting from item 1.1 the limitation in the fifth column "withdraw 24-hours before slaughter;".

B. Based upon the data before him and proceeding under the authority of the act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), delegated as cited above, the Commissioner further concludes that where chickens are treated with the additive in accordance with § 121.291, as amended herein, tolerance limitations are required to assure that edible tissues and eggs from treated chickens are safe for human consumption. Accordingly, § 121.1002 is revised to read as follows:

§ 121.1002 Buquinolate.

Tolerances for residues of buquinolate (ethyl-4-hydroxy - 6,7 - diisobutoxy - 3 - quinolinecarboxylate) in edible tissues and eggs of chickens are established as follows: 0.4 part per million in liver, kidney, and skin with fat; 0.1 part per million in muscle; and 0.01 part per million (negligible residue) in eggs.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: April 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-4977; Filed, Apr. 25, 1969; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BHT AND BHA

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9A2344) filed by Idaho Potato Foods, Inc., Post Office Box 596, Idaho Falls, Idaho 83401, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of BHT and BHA, alone or in combination, as antioxidants in dehydrated potato shreds. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. Section 121.1034(b) is amended by alphabetically inserting in the list a new item, as follows:

§ 121.1034 BHT.

* * * * * * *

(b) * * *

Food	*Limitations (total BHA and BHT) parts per million*
* * *	* * *
Dehydrated potato shreds	50
* * *	* * *

* * * * * * *

2. Section 121.1035(b) is amended by alphabetically inserting in the list a new item, as follows:

§ 121.1035 BHA.

* * * * * * *

(b) * * *

Food	*Limitations (total BHA and BHT) parts per million*
* * *	* * *
Dehydrated potato shreds	50
* * *	* * *

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: April 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-4976; Filed, Apr. 25, 1969; 8:45 a.m.]

PART 128—HUMAN FOODS; CURRENT GOOD MANUFACTURING PRACTICE (SANITATION) IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

In the FEDERAL REGISTER of December 15, 1967 (32 F.R. 17980), the Commissioner of Food and Drugs proposed the promulgation of Part 128 covering current good manufacturing practice (sanitation) in the manufacture, processing, packing, or holding of human foods. Comments were received in response thereto which resulted in significant changes in the proposed regulations, and the Commissioner concluded that a revised proposal should be published. The revised proposal was published December 20, 1968 (33 F.R. 19023), and provided for the filing of comments within 30 days. The time for filing comments was extended to February 18, 1969, by a notice published January 10, 1969 (34 F.R. 399).

In response to the revised proposal, communications were received from 46 firms and trade associations. Some recommended issuance of guidelines in place of regulations. Suggestions for changes were mostly of a clarifying nature. A few offered full endorsement to the proposal.

Having considered the comments received and other relevant material, the Commissioner concludes that the proposed regulations, with some of the suggested changes adopted, should be promulgated as set forth below.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Title 21 is amended by adding to Chapter I a new Part 128, as follows:

Sec.
128.1 Definitions.
128.2 Current good manufacturing practice (sanitation).
128.3 Plant and grounds.
128.4 Equipment and utensils.
128.5 Sanitary facilities and controls.
128.6 Sanitary operations.
128.7 Processes and controls.
128.8 Personnel.
128.9 Exclusions.

AUTHORITY: The provisions of this Part 128 issued under secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a).

§ 128.1 Definitions.

The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this part. The following definitions shall also apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Plant" means the building or buildings or parts thereof, used for or in connection with the manufacturing, processing, packaging, labeling, or holding of human food.

(c) "Sanitize" means adequate treatment of surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and in substantially reducing other micro-organisms. Such treatment shall not adversely affect the product and shall be safe for the consumer.

§ 128.2 Current good manufacturing practice (sanitation).

The criteria in §§ 128.3 through 128.8 shall apply in determining whether the facilities, methods, practices, and controls used in the manufacture, processing, packing, or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption is safe and has been prepared, packed, and held under sanitary conditions.

§ 128.3 Plant and grounds.

(a) *Grounds.* The grounds about a food plant under the control of the operator shall be free from conditions which may result in the contamination of food including, but not limited to, the following:

(1) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

(2) Excessively dusty roads, yards, or parking lots that may constitute a source of contamination in areas where food is exposed.

(3) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or micro-organisms.

If the plant grounds are bordered by grounds not under the operator's control of the kind described in subparagraphs (1) through (3) of this paragraph, care must be exercised in the plant by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

(b) *Plant construction and design.* Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-processing purposes. The plant and facilities shall:

(1) Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations and production of safe food. Floors, walls, and ceilings in the plant shall be of such construction as to be adequately cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall not be so suspended over working areas that drip or condensate may contaminate foods, raw materials, or food-contact surfaces. Aisles or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces with clothing or personal contact.

(2) Provide separation by partition, location, or other effective means for those operations which may cause contamination of food products with undesirable micro-organisms, chemicals, filth, or other extraneous material.

(3) Provide adequate lighting to hand-washing areas, dressing and locker rooms, and toilet rooms and to all areas where food or food ingredients are examined, processed, or stored and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(4) Provide adequate ventilation or control equipment to minimize odors and noxious fumes or vapors (including steam) in areas where they may contaminate food. Such ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

(5) Provide, where necessary, effective screening or other protection against birds, animals, and vermin (including, but not limited to, insects and rodents).

§ 128.4 Equipment and utensils.

All plant equipment and utensils should be (a) suitable for their intended use, (b) so designed and of such material and workmanship as to be adequately cleanable, and (c) properly maintained. The design, construction, and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment should be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

§ 128.5 Sanitary facilities and controls.

Each plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to, the following:

(a) *Water supply.* The water supply shall be sufficient for the operations intended and shall be derived from an adequate source. Any water that contacts foods or food-contact surfaces shall be safe and of adequate sanitary quality. Running water at a suitable temperature and under pressure as needed shall be provided in all areas where the processing of food, the cleaning of equipment, utensils, or containers, or employee sanitary facilities require.

(b) *Sewage disposal.* Sewage disposal shall be made into an adequate sewerage system or disposed of through other adequate means.

(c) *Plumbing.* Plumbing shall be of adequate size and design and adequately installed and maintained to:

(1) Carry sufficient quantities of water to required locations throughout the plant.

(2) Properly convey sewage and liquid disposable waste from the plant.

(3) Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils or create an insanitary condition.

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(d) *Toilet facilities.* Each plant shall provide its employees with adequate toilet and associated hand-washing facilities within the plant. Toilet rooms shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination, except where alternate means have been taken to prevent such contamination (such as double doors, positive air-flow systems, etc.). Signs shall be posted directing employees to wash their hands with cleaning soap or detergents after using toilet.

(e) *Hand-washing facilities.* Adequate and convenient facilities for hand washing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand-cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, easily cleanable waste receptacles.

(f) *Rubbish and offal disposal.* Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies.

§ 128.6 Sanitary operations.

(a) *General maintenance.* Buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended

uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses.

(b) *Animal and vermin control.* No animals or birds, other than those essential as raw material, shall be allowed in any area of a food plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

(c) *Sanitation of equipment and utensils.* All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

(d) *Storage and handling of cleaned portable equipment and utensils.* Cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination.

§ 128.7 Processes and controls.

All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accord with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable micro-organisms, or any other objectionable material to the processed product:

(a) Raw material and ingredients shall be inspected and segregated as necessary to assure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of adequate quality, and water shall not be reused for washing, rinsing, or conveying products in a manner that may result in contamination of food products.

(b) Containers and carriers of raw ingredients should be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(c) When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner.

(d) Food-processing areas and equipment used for processing human food should not be used to process nonhuman food-grade animal feed or inedible products unless there is no reasonable possibility for the contamination of the human food.

(e) Processing equipment shall be maintained in a sanitary condition through frequent cleaning including sanitization where indicated. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(f) All food processing, including packaging and storage, should be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

(g) Chemical, microbiological, or extraneous-material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be properly accomplished.

(h) Packaging processes and materials shall not transmit contaminants or objectionable substances to the products, shall conform to any applicable food additive regulation (Part 121 of this chapter), and should provide adequate protection from contamination.

(i) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity should be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records should be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than 2 years.

(j) Storage and transportation of finished products should be under such conditions as will prevent contamination, including development of pathogenic or toxigenic micro-organisms, and will protect against undesirable deterioration of the product and the container.

§ 128.8 Personnel.

The plant management shall take all reasonable measures and precautions to assure the following:

(a) *Disease control.* No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall work in a food plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by such person, or of disease being transmitted by such person to other individuals.

(b) *Cleanliness.* All persons, while working in direct contact with food preparation, food ingredients, or surfaces coming into contact therewith shall:

(1) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty, to the extent necessary to prevent contamination of food products.

(2) Wash their hands thoroughly (and sanitize if necessary to prevent contamination by undesirable micro-organism) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(3) Remove all insecure jewelry and, during periods where food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

(4) If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Such gloves should be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

(5) Wear hair nets, headbands, caps, or other effective hair restraints.

(6) Not store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form

in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

(7) Take any other necessary precautions to prevent contamination of foods with micro-organisms or foreign substances including, but not limited to, Perspiration, hair, cosmetics, tobacco, chemicals and medicants.

(c) *Education and training.* Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food-handling techniques and food-protection principles and should be cognizant of the danger of poor personal hygiene and insanitary practices.

(d) *Supervision.* Responsibility for assuring compliance by all personnel with all requirements of this Part 128 shall be clearly assigned to competent supervisory personnel.

§ 128.9 Exclusions.

The following operations are excluded from coverage under these general regulations, however, the Commissioner will issue special regulations when he believes it necessary to cover these excluded operations: Establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities, as defined in section 201(r) of the act, which are ordinarily cleaned, prepared, treated or otherwise processed before being marketed to the consuming public.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a))

Dated: April 21, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-4978; Filed, Apr. 25, 1969; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

Subchapter D—Rental Housing Insurance

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

In § 207.19 the introductory text of paragraph (b) and paragraph (c)(5) are amended to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(b) *Rate of return.* Dividends or other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No dividends or other distributions shall be declared or made except out of surplus cash legally available and remaining after:

* * * * *

(c) *Requirements incident to insurance of advances.* * * *

(5) Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER E—COOPERATIVE HOUSING INSURANCE

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

Section 213.27(d) is amended to read as follows:

§ 213.27 Assurance of completion.

* * * * *

(d) Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e)

SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

Section 220.611 is amended to read as follows:

§ 220.611 Building loan agreement.

When the principal amount of the loan exceeds $40,000, and there is to be insurance of advances during construction of the improvements, the borrower and lender shall, prior to the initial endorsement of the loan for insurance, execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

In § 221.524(a)(1) a new subdivision (iv) is added to read as follows:

§ 221.524 Prepayment privileges.

(a) *Prepayment in full—(1) Without prior Commissioner consent.* * * *

(iv) Where the mortgage is insured pursuant to section 221(h) of the Act and the prepayment occurs as a result of a sale of the individual units comprising the project.

* * * * *

In § 221.531 the introductory text of paragraph (b) is amended to read as follows:

§ 221.531 Supervision applicable to general mortgagors.

* * * * *

(b) *Rate of return.* Dividends or other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No dividends or other distributions shall be declared or made except out of surplus cash legally available and remaining after:

* * * * *

Section 221.541 is amended to read as follows:

§ 221.541 Building loan agreement.

Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

In § 221.559b paragraph (c)(1)(ii) is amended to read as follows:

§ 221.559b Eligibility for insurance under section 221(j) of mortgage financing purchase of existing project by cooperative.

* * * * *

(c) * * *

(1) * * *

(ii) The project's actual cost at the time of completion (as determined by the Commissioner) or the project's fair market value for residential purposes as

determined by the Commissioner on the basis of operating the project without the benefit of a below market interest rate mortgage or rent supplement payments and without the controls by the Commissioner over the project imposed by the provisions in this subpart, whichever amount is the greater.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715*l*)

SUBCHAPTER J—MORTGAGE INSURANCE FOR NURSING HOMES

PART 232—NURSING HOMES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

Section 232.55 is amended to read as follows:

§ 232.55 Building loan agreement.

Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

Section 232.61(a) is amended to read as follows:

§ 232.61 Equity requirements.

(a) *Funds and finances—in general.* The mortgagor shall establish to the Commissioner's satisfaction that, in addition to the proceeds of the insured mortgage, the mortgagor has adequate funds to meet the expenses of the project (including the cost of equipment and supplies not to be purchased with mortgage proceeds) for such period as the Commissioner estimates as necessary to establish a sustaining level of operation.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 232, 73 Stat. 663; 12 U.S.C. 1715w)

SUBCHAPTER M—HOMES FOR LOWER INCOME FAMILIES

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart A—Eligibility Requirements—Homes for Lower Income Families

In § 235.5 paragraph (a) is amended, paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 235.5 Definitions used in this subpart.

* * * * *

(a) "Adjusted annual income" means the annual family income remaining after making certain exclusions from gross annual income. The following items shall be excluded, in the order listed, from family gross annual income:

(1) 5 percent of such gross annual income, in lieu of amounts to be withheld (social security, retirement, health insurance, etc.).

(2) Any unusual income or temporary income, as defined by the Commissioner.

(3) The earnings of each minor in the family who is living with such family, plus the sum of $300 for each such minor.

* * * * *

(d) "Gross annual income" means the total income, before taxes and other deductions, received by all members of the mortgagor's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items as the Commissioner considers appropriate.

* * * * *

In § 235.15 paragraph (c) is amended to read as follows:

§ 235.15 Eligible types of dwellings.

* * * * *

(c) A one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction or substantial rehabilitation of which shall have been completed not more than 2 years prior to the filing of the application for assistance payments under Subpart C of this part. The family unit shall have had no previous occupant other than the mortgagor.

* * * * *

In § 235.20 paragraphs (a) through (e) are redesignated as paragraphs (b) through (f) and a new paragraph (a) is added to read as follows:

§ 235.20 Requirements for family unit in condominium.

* * * * *

(a) *FHA project financing.* The project in which the family unit is located shall (except where it involves 11 or less units) have been financed with a mortgage which is or has been insured under any of the FHA multifamily housing programs other than sections 213(a)(1) and 213(a)(2) of the National Housing Act.

* * * * *

(Sec. 211, 52 Stat. 23, as amended, sec. 235, 82 Stat. 477, as amended; 12 U.S.C. 1715b, 1715z)

SUBCHAPTER N—PROJECTS FOR LOWER INCOME FAMILIES

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS

Subpart A—Eligibility Requirements for Mortgage Insurance

In Part 236, Subpart A in the Table of Contents a new § 236.2 is added as follows:

Sec.
236.2 Definitions used in this subpart.

In Part 236, Subpart A a new § 236.2 is added to read as follows:

§ 236.2 Definitions used in this subpart.

As used in this subpart, the following terms shall have the meaning indicated:

(a) "Adjusted monthly income" means one-twelfth of the annual family income remaining after making certain exclusions from gross annual income. The following items shall be excluded, in the order listed, from family gross annual income:

(1) 5 percent of such gross annual income, in lieu of amounts to be withheld (social security, retirement, health insurance, etc.).

(2) Any unusual income or temporary income, as defined by the Commissioner.

(3) The earnings of each minor in the family who is living with such family, plus the sum of $300 for each such minor.

(b) "Family" means two or more persons related by blood, marriage, or operation of law, who occupy the same dwelling or unit.

(c) "Gross annual income" means the total income, before taxes and other deductions, received by all members of the tenant's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments and such other income items as the Secretary considers appropriate.

(d) "Handicapped" means a person who has a physical impairment which:

(1) Is expected to be of long-continued and indefinite duration.

(2) Substantially impedes his ability to live independently.

(3) Is of such nature that his ability to live independently could be improved by more suitable housing conditions.

(e) "Minor" means a person under the age of 21. Such term shall not include a tenant or his spouse.

In § 236.50 paragraph (a) is amended to read as follows:

§ 236.50 Supervision applicable to limited distribution mortgagors.

(a) Dividends or other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. The amount of any allowable distribution, or disbursement from surplus cash, shall not exceed in any 1 fiscal year more than 6 percent of the mortgagor's initial equity investment in the projects, as determined by the Commissioner.

* * * * *

§ 236.55 [Amended]

In § 236.55 paragraph (d) is deleted.

In § 236.70 paragraph (a)(4) is amended and paragraphs (d) and (e) are deleted as follows:

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* * * *

(4) A handicapped person.

* * * * *

(Sec. 211, 52 Stat. 23, as amended, sec. 236, 82 Stat. 498, as amended; 12 U.S.C. 1715b, 1715z–1)

SUBCHAPTER V—LAND DEVELOPMENT INSURANCE

PART 1000—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

Section 1000.80 is amended to read as follows:

§ 1000.80 Building loan agreement.

Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioiner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

(Sec. 1010, 79 Stat. 464; 12 U.S.C. 1749jj)

SUBCHAPTER W—GROUP PRACTICE FACILITIES INSURANCE

PART 1100—MORTGAGE INSURANCE AND GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

Section 1100.67 is amended to read as follows:

§ 1100.67 Insured advances—building loan agreement.

Prior to the initial endorsement of the mortgage for insurance, the mortgagor and the mortgagee shall execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which progress payments may be advanced during construction. To be covered by mortgage insurance, each progress payment shall be approved by the Commissioner.

(Sec. 1101, 80 Stat. 1255, 1274; 12 U.S.C. 1749 aaa–1 et seq.)

Issued at Washington, D.C., April 22, 1969.

WILLIAM B. ROSS,
Acting Federal Housing Commissioner.

[F.R. Doc. 69–4987; Filed, Apr. 25, 1969; 8:46 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 54—GOLD REGULATIONS

Imports of Gold Coin

Section 54.20 of the Gold Regulations is being amended to permit the importation without a license of gold coins made before 1934. Licenses will be required to import any gold coins made during 1934 or later. Licenses for importation may be issued for coins minted before 1960 which can be established to the satisfaction of the Director, Office of Domestic Gold and Silver Operations, to be of recognized special value to collectors of rare and unusual coin and to have been originally issued to circulate as coinage within the country of issue. Licenses for importation may be issued for gold coins made during or subsequent to 1960 only in cases where the particular coin was licensed for importation prior to April 30, 1969. Because the amendments relieve an existing restriction and in the case of coins made after 1933 make no change in present Regulations and licensing policies, it is found that notice and public procedure thereon are unnecessary.

Section 54.20 is amended to read:

§ 54.20 Rare coin.

(a) Gold coin of recognized special value to collectors of rare and unusual coin may be acquired, held, and transported within the United States without the necessity of holding a license therefor. Such coin may be imported, however, only as permitted by this section or §§ 54.28 to 54.30, 54.34 or licenses issued thereunder, and may be exported only in accordance with the provisions of § 54.25.

(b) Gold coin made prior to 1934 is considered to be of recognized special value to collectors of rare and unusual coin.

(c) Gold coin made during or subsequent to 1934 is presumed not to be of recognized special value to collectors of rare and unusual coin.

(d) Gold coin made prior to 1934, may be imported without the necessity of obtaining a license therefor.

(e) Gold coin made during or subsequent to 1934 may be imported only pursuant to a specific or general license issued by the Director, Office of Domestic Gold and Silver Operations. Licenses under this paragraph may be issued only for gold coin made prior to 1960, which can be established to the satisfaction of the Director to be of recognized special value to collectors of rare and unusual coin and to have been originally issued for circulation within the country of issue. Licenses may be issued for gold coin made during or subsequent to 1960 in cases where the particular coin was licensed for importation prior to April 30, 1969. Application for a specific license under this paragraph shall be executed on Form TG–31 and filed in duplicate with the Director.

(Sec. 5(b), 40 Stat. 415, as amended, secs. 3, 8, 9, 11, 48 Stat. 340, 341, 342; 12 U.S.C. 95a, 31 U.S.C. 442, 733, 734, 822b, E.O. 6260, Aug. 28, 1933, as amended by E.O. 10896, 25 F.R. 12281, E.O. 10905, 26 F.R. 321, E.O. 11037, 27 F.R. 6967; 3 CFR, 1959–63 Comp. and E.O. 6359, Oct. 25, 1933, E.O. 9193, as amended, 7 F.R. 5205; 3 CFR 1943, Cum. Supp., E.O. 10289, 16 F.R. 9499, 3 CFR, 1949–53 Comp.)

Effective date: These amendments shall become effective on publication in the FEDERAL REGISTER.

Dated: April 22, 1969.

[SEAL] PAUL A. VOLCKER,
Under Secretary for Monetary Affairs.

[F.R. Doc. 69–4994; Filed, Apr. 25, 1969; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

PART 14–2—PROCUREMENT BY FORMAL ADVERTISING

PART 14–7—CONTRACT CLAUSES

Correction of CFR as of Jan. 1, 1969

The following amendments to 41 CFR Parts 14–2 and 14–7 published at 3 F.R. 18579, Dec. 14, 1968, were inadvertently omitted from 41 CFR Chapters 6 to 17, revised as of Jan. 1, 1969.

§ 14–2.405–50 Other irregularities in bids.

All communications with the Comptroller General will be conducted by the Assistant Secretary for Administration: *Provided, however,* That contracting officers may submit bid irregularities and other questions pertaining to contract awards directly to the Comptroller General when demanded by exigency or pressure of circumstance. When time will permit, consultation with members of the Office of the Solicitor, either at its headquarters or regional or field office, shall be accomplished prior to such communication. A copy of the letter, with attachments, if any, to the Comptroller General shall be forwarded simultaneously to the Director, Office of Survey and Review and to the Office of the Solicitor.

§ 14–7.602–50(5)(a) Safety and health.

(a) In the interest of uniformity the heads of bureaus and offices shall require in every construction contract the inclusion of a safety and health clause similar to the one given below, containing as a minimum those requirements. Insert in the blank space of the clause the title of (1) the bureaus' and offices' own approved construction safety manual, (2) "Construction Safety Standards" of the Bureau of Reclamation,[1] or (3) "Manual of Accident Prevention in Construction" (latest revised edition) of the Associated General Contractors of America, Inc.

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 148h]

KANAMYCIN SULFATE

Kanamycin B Content Testing Method

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that § 148h.1 (b) (9) be revised to read as follows to provide for an improved testing method for kanamycin B content:

§ 148h.1 Kanamycin sulfate.

* * * * *

(b) * * *

(9) *Kanamycin B content*—(i) *Test procedure.* Proceed as directed in § 141.-110 (a), (b), and (c) of this chapter, preparing the sample for assay as follows: To 100 milligrams, accurately weighed, of kanamycin sulfate in a suitable container (such as a serum vial), add 5.0 milliliters of 6*N* hydrochloric acid, and tightly close the container. Heat in a water bath at 100° C. for 1 hour and cool. Add 4 milliliters of 6*N* sodium hydroxide, then dilute with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain an activity equivalent to 1 microgram of kanamycin per milliliter (estimated).

(ii) *Estimation of potency.* Proceed as directed in § 141.110(d) of this chapter, except calculate the micrograms of kanamycin B per milligram of sample as follows:

$$K_b \text{ (micrograms of kanamycin B per milligram of sample)} = \frac{P \times 0.46 \times \text{dilution factor} \times 18.5}{\text{Sample weight in milligrams}},$$

where:

P = Observed potency of the assay solution in micrograms of kanamycin per milliliter;

0.46 = Empirical factor to correct for the fact that kanamycin B is 2.18 times as potent as kanamycin on a weight basis;

18.5 = Empirical factor to correct for the loss of kanamycin B activity due to heating the assay solution in acid.

(iii) *Calculation of kanamycin B content.* Calculate the kanamycin B content of the sample as follows:

$$\text{Percent of kanamycin B} = \frac{K_b \times 100}{K_t - 1.18 \times K_b},$$

where:

K_b = Micrograms of kanamycin B per milligram of sample;

K_t = Total kanamycin per milligram of sample.

* * * * *

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: April 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-4979; Filed, Apr. 25, 1969; 8:45 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 52]

CERTAIN MANPOWER PROGRAMS

Proposed Fiscal Safeguards

To utilize in the summer work and training programs under section 123(a) (1) of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2740) the fiscal safeguards developed by, and experience of, State employment security agencies in making payments to individuals and in fraud and overpayment detection, I hereby propose to amend Title 29 of the Code of Federal Regulations by adding a new Part 52 to include the provisions set forth below. The proposal is made under authority contained in section 602 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2942) and the delegation of authorities to the Secretary of Labor by the Director of the Office of Economic Opportunity published in the FEDERAL REGISTER at 33 F.R. 15139.

In order that interested persons may have an opportunity to participate in the rule making process, oral data, views, or argument will be received by a Hearing Examiner to be designated for this purpose, on May 12, 1969, beginning at 10 a.m. in room 107–A of the U.S. Department of Labor building at 14th Street and Constitution Avenue NW., Washington, D.C.

Any person wishing to participate in the oral proceedings shall state at the inception thereof his name, address, his interest, and the amount of time his presentation will require. Interested persons may also submit written data, views, or argument by mailing four (4) copies to the Manpower Administrator not later than May 12, 1969, the date of the oral proceedings.

The oral proceedings shall be reported, and transcripts shall be available to any interested person on such terms as the Hearing Examiner may provide. The Hearing Examiner shall regulate the course of the oral presentations, dispose of procedural requests, objections, and comparable matters and confine the presentations to matters pertinent to this proposal. He shall have discretion to keep the record open for a reasonable, stated time to receive written recommendations and supporting reasons and additional data, views or argument from persons who have participated in the oral proceedings.

Upon completion of the oral proceedings, the transcript thereof, together with the exhibits, written submissions and all post-hearing recommendations and supporting reasons shall be certified to the Assistant Secretary of Labor for Manpower. Upon consideration of such matters and of such other information as may be available, the Assistant Secretary will issue such regulations as he will deem appropriate.

Title 29 of the Code of Federal Regulations is proposed to be amended by adding a new Part 52 as follows:

PART 52 — REQUIREMENTS FOR AGREEMENTS PROVIDING FINANCIAL ASSISTANCE FOR SUMMER WORK AND TRAINING PROGRAMS UNDER TITLE I, PART B, OF THE ECONOMIC OPPORTUNITY ACT OF 1964, AS AMENDED

Sec.
52.1 Purpose.
52.2 General requirements.
52.3 Exceptions.
52.4 Effective date.

AUTHORITY: The provisions of this Part 52 issued under authority contained in section 602 of the Economic Opportunity Act of 1964, as amended, and the delegation of authorities to the Secretary of Labor by the Director of the Office of Economic Opportunity, 33 F.R. 15139.

§ 52.1 Purpose.

The purpose of this part is to provide for the utilization in summer work and training programs under section 123(a) (1) of the Economic Opportunity Act of 1964, as amended, of the fiscal safeguards developed by State employment security agencies and the experience of such agencies in making payments to individuals and in fraud and overpayment detection.

§ 52.2 General requirements.

All agreements providing financial assistance for summer work and training

programs under section 123(a)(1) of the Economic Opportunity Act of 1964, as amended, shall contain provisions that the sponsor (a) will assure that payments to enrollees in such programs, whether employed by the sponsor or others, shall be made by the State employment security agency of the State in which the sponsor is located; (b) will furnish the State employment security agency data on the basis of which such payments will be made; (c) will provide such access to books, records and worksites as will enable the State employment security agency to verify the propriety of payments by it; and (d) will otherwise cooperate with the State employment security agency to assure the effective administration of the summer work and training program. The services of the State employment security agency shall be procured by the sponsor on a cost reimbursable basis and in accordance with the applicable agreement between the Secretary of Labor and the State employment security agency for this purpose.

§ 52.3 Exceptions.

The provisions contained in § 52.2 shall not apply (a) in States where the State employment security agency and the Secretary of Labor have not entered into an appropriate agreement, and (b) where the Secretary of Labor determines that economy and efficiency make other arrangements more appropriate.

§ 52.4 Effective date.

This Part shall be applicable thirty (30) days after its publication in the FEDERAL REGISTER to all agreements providing financial assistance for summer work and training programs under section 123(a)(1) of the Economic Opportunity Act of 1964, as amended, which are in effect on that date, or which are entered into thereafter.

Signed at Washington, D.C., this 22d day of April, 1969.

ARNOLD R. WEBER,
Assistant Secretary for Manpower.

[F.R. Doc. 69-4983; Filed, Apr. 25, 1969; 8:46 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 50, 160]

[Docket No. R-345]

PROCUREMENT, COMPETITION

Order Setting Oral Argument

APRIL 21, 1969.

By notice dated September 13, 1968, the Commission proposed to prescribe regulations setting general procurement standards for regulated utilities as purchasers of specified goods and services exceeding $100,000.

In response to this notice of proposed rulemaking, comments have been received from numerous persons and organizations, including Members of Congress, Federal and State agencies, public utilities, hydroelectric licensees, natural gas companies, equipment manufacturers, contractors, trade associations, and various individuals. Some of these comments supported the proposed regulation, others proposed modifications and many were opposed to the regulation. In addition, a number of persons requested a public hearing.

In view of the diversity of the comments and the requests for a public hearing, we have determined that it would be appropriate to hold oral argument on the proposed regulation. This argument will be held on May 26, 1969, and it is our intention that it be concluded in 1 day. In order to accomplish this and to prevent duplication of argument we are requiring that parties with the same or similar views join together and select one spokesman for such views. To implement this we have directed our staff to work with the parties wishing to participate and point out to them those parties who appear to have similar positions with whom they should join in the selection of a spokesman. Mr. Donald L. Young, Special Assistant to the Chairman, will be in charge of this coordination and any questions should be directed to him (telephone, area code 202, 386-6081).

While the regulation as proposed in the notice of September 13, 1968, will be the formal subject of the oral argument, it should be understood that the Commission does not wish the presentations to be limited to the regulation exactly as proposed but instead any alternatives or modifications considered desirable should also be presented. In this connection, suggestions have been made that the Commission limit its rule several different ways. The rulemaking could be issued as a set of guidelines rather than as a set of requirements. It could be limited to require only that the company make its procurement policies available on its premises along with a list of items the company is interested in obtaining and that the company keep records for a reasonable period of time. It could be limited even further to require only that each company file a statement setting forth the procurement policies of the company.

On the other hand, some parties have fully supported the rule as proposed or suggested that it does not go far enough. We expect that these parties will be prepared to discuss the abuses the rule is intended to mitigate and how the rule or some stronger version of it would so mitigate these abuses.

In order to aid the parties in preparing their arguments, we note at this point that the suggestions with regard to simplification of bidding-list procedures (see, e.g., comments of Consolidated Edison, pp. 6-9) are convincing and well taken and it will be unnecessary further to develop this point at the hearing.

The Commission orders: Oral argument before the Commission in Docket No. R-345 shall be held on May 26, 1969, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. All interested persons desiring to participate in the oral argument shall inform the Secretary of the Commission in writing not later than April 30, 1969, of the length of time desired for their oral presentations. No further written briefs or memoranda should be filed.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-4985; Filed, Apr. 25, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1203]

[No. 35029]

UNIFORM SYSTEM OF ACCOUNTS FOR EXPRESS COMPANIES

Extension of Time for Filing Views and Comments

Present: Laurence K. Walrath, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding and of the request of the Railway Express Agency for a further extension of time to file comments.

It is ordered, That the time for filing views and comments set by the notice of proposed rule making served December 9, 1968, and published on page 18496 of the FEDERAL REGISTER be, and it is hereby, further extended to October 31, 1969.

(Secs. 12, 20, 24 Stat. 383, 386, as amended; 49 U.S.C. 12, 20)

Dated at Washington, D.C., this 16th day of April 1969.

By the Commission, Commissioner Walrath.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-5001; Filed, Apr. 25, 1969; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1968 Rev., Supp. No. 15]

SUPERIOR INSURANCE COMPANY

Termination of Authority To Qualify as Surety on Federal Bonds

Notice is hereby given that the Certificate of Authority issued by the Secretary of the Treasury to Superior Insurance Company, Indianapolis, Ind., under sections 6 to 13 of title 6 of the United States Code, to qualify as an acceptable surety on recognizances, stipulations, bonds and undertakings permitted or required by the laws of the United States, is terminated, effective as of December 31, 1968.

The Treasury has been advised that, effective December 31, 1968, Superior Insurance Company merged into American Economy Insurance Company, Indianapolis, Ind., which is the surviving corporation.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds with acceptable sureties in lieu of bonds executed by Superior Insurance Company.

Dated: April 22, 1969.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 69-4995; Filed, Apr. 25, 1969; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. N-818]

NEVADA

Notice of Termination of Proposed Classification

APRIL 18, 1969.

Notice was given in F.R. Doc. 68-6052, on page 7591 of the issue for May 22, 1968, of a proposed classification for the disposal of 5,000 acres of land in Clark County, the lands being described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 17 S., R. 58 E.,
Sec. 14, NW¼SW¼, S½SW¼;
Sec. 15, W½NE¼, W½, SE¼;
Sec. 16, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, W½;
Sec. 25, W½W½;
Sec. 26, all;
Sec. 35, all.

These lands were classified in accordance with section 2 of the Classification and Multiple-Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1412), and their disposal authorized by the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427).

As a result of subsequent review and reconsideration, the proposed classification has been determined to be inappropriate. The publication of this notice shall terminate the proposed classification and its segregative effect, and restore the lands to unclassified status.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 69-4982; Filed, Apr. 25, 1969; 8:45 a.m.]

Office of the Secretary

ROADBUILDING IN NATIONAL PARKS

Revocation of Procedures

Notice is hereby given that the procedures adopted on January 18, 1969, and published in the FEDERAL REGISTER on January 29, 1969, 34 F.R. 1405, regarding the location and design of major road projects in the National Park System administered by the Department of the Interior are revoked, effective immediately.

Issued in Washington, D.C., on April 21, 1969.

WALTER J. HICKEL,
Secretary of the Interior.

[F.R. Doc. 69-4993; Filed, Apr. 25, 1969; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OLD VIRGINIA, INC.

Fruit Jelly and Jams Deviating From Identity Standards; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Old Virginia, Inc., Front Royal, Va. 22630. This permit covers interstate marketing tests of black raspberry jelly, apple-raspberry jelly, and black raspberry jam made from dried black raspberries, an ingredient not provided for by the standard of identity for fruit jellies (21 CFR 29.2) or preserves and jams (21 CFR 29.3).

Labels on the food will name the ingredient. On each principal panel, the statement "Made from dried black raspberries" will immediately precede or follow the name of the jelly or jam, as the case may be.

This permit expires August 1, 1969.

Dated: April 18, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-4981; Filed, Apr. 25, 1969; 8:45 a.m.]

METHYL *m*-HYDROXYCARBANILATE *m*-METHYLCARBANILATE

Notice of Establishment of Temporary Tolerance

Notice is given that at the request of the Morton Chemical Co., Woodstock, Ill. 60098, a temporary tolerance of 0.1 part per million is established for residues of the herbicide methyl *m*-hydroxycarbanilate *m*-methylcarbanilate in or on sugar beets. The Commissioner of Food and Drugs has determined that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the herbicide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Morton Chemical Co. name.

This temporary tolerance will expire April 21, 1970.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: April 21, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-4980; Filed, Apr. 25, 1969; 8:45 a.m.]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Paragraph 8-D.2. of Part 8 (Social Security Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (33 F.R. 5828 et seq., April 16, 1968), is amended to read as follows:

2. *Delegations of authority to the Bureau of Hearings and Appeals.* In accordance with applicable rules and regulations, the Appeals Council, its members, and Hearing Examiners in the Bureau of Hearings and Appeals, shall exercise all duties, powers, and functions of the Secretary relating to the holding of hearings, the administration of oaths and affirmations, the issuance of subpoenas, the examination of witnesses, the receipt of evidence, and

a. The rendition of decisions and the review of decisions in connection with administrative appeals:

(1) By individuals from determinations made under title II of the Social Security Act, as amended, and affecting their rights to benefits, lump-sum payments, earnings credited to accounts, and disability determinations;

(2) By individuals from determinations made under title XVIII of the Social Security Act and affecting their rights to, and amounts of, benefits;

(3) By institutions or agencies from determinations described in section 1869 (c) of the Social Security Act; and

(4) By independent laboratories from determinations made pursuant to section 1861(s) of the Social Security Act, as amended, that they do not meet the conditions for coverage of their services;

b. The recommendation and rendition of decisions—in the case of Hearing Examiners appointed by the Director or Deputy Director, Bureau of Hearings and Appeals, on an ad hoc basis to act as hearing officers in particular cases—and the rendition and review of decisions—in the case of the Appeals Council, its members—in connection with charges proposing the suspension or disqualification of representatives from further practice before the Secretary, pursuant to section 206(a) of the Social Security Act.

(Sec. 6, Reorganization Plan No. 1 of 1953)

Dated: April 22, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-4998; Filed, Apr. 25, 1969; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 69-44]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination or Approval Notice

1. Certain laws and regulations (46 CFR, Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from September 27, 1968, to March 12, 1969 (List Nos. 3-69 and 8-69). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.4 (a)(2) and (g)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR, Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE: Approved for use on all vessels and motorboats.

The Liberty Cork Co., Inc., 123 Whitehead Avenue, South River, N.J., Approval Nos. 160.002/80/0 and 160.002/81/0 expired and were terminated effective March 6, 1969.

The Stearns Manufacturing Co., Division Street at 30th, St. Cloud, Minn., Approval Nos. 160.002/82/0 and 160.002/83/0 expired and were terminated effective March 6, 1969.

LINE-THROWING APPLIANCE, SHOULDER GUN TYPE (AND EQUIPMENT), FOR MERCHANT VESSELS

The Naval Co., Route 611, Doylestown, Pa., Approval No. 160.031/5/0 expired and was terminated effective February 7, 1969.

LIFEBOATS FOR MERCHANT VESSELS

The C. C. Galbraith and Son, Inc., 99 Park Place, New York 7, N.Y., Approval No. 160.035/22/3 expired and was terminated effective March 12, 1969.

The Lane Lifeboat and Davit Corp., 8920 26th Avenue, Brooklyn, N.Y., Approval Nos. 160.035/90/2 and 160.035/254/2 expired and were terminated effective March 12, 1969 and September 27, 1968, respectively.

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The S and M Co., Arthur and Kennedy Streets NW., Minneapolis, Minn., Approval Nos. 160.047/405/0, 160.047/406/0, and 160.047/407/0 expired and were terminated effective January 9, 1969.

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The Wallace Manufacturing Co., 273-285 Congress Street, Boston 10, Mass., Approval No. 160.048/145/0 expired and was terminated effective March 12, 1969.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The Lifo Products Co., 930 York Street, Cincinnati 22, Ohio, Approval Nos. 160.052/40/0, 160.052/41/0 and 160.052/42/0 expired and were terminated effective March 12, 1969.

The Style-Crafters, Inc., Post Office Box 8277, Station A, Greenville, S.C. 29604, Approval Nos. 160.052/31/0, 160.052/32/0, and 160.052/33/0 expired and were terminated effective March 6, 1969.

BOILERS (HEATING)

The International Boiler Works Co., 1 Birch Street, East Stroudsburg, Pa., Approval No. 162.003/78/1 expired and was terminated effective March 12, 1969.

BULKHEAD PANELS FOR MERCHANT VESSELS

The United States Plywood Corp., 55 West 44th Street, New York 36, N.Y., Approval No. 164.008/24/1 expired and was terminated effective March 12, 1969.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Isoflex Sales Co., 1564 Rollins Road, Burlingame, Calif., Approval No. 164.009/56/0 expired and was terminated effective March 12, 1969.

Dated: April 22, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-5005; Filed, Apr. 25, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18500; FCC 69-376]

CHRONICLE BROADCASTING CO.

Specification Order

In re applications of Chronicle Broadcasting Co., San Francisco, Calif., for renewal of licenses of Station KRON-FM and Station KRON-TV, San Francisco, Calif., Docket No. 18500, File No. BRH-926, File No. BRCT-94.

By memorandum opinion and order released March 20, 1969 (FCC 69-262) the Commission designated the above application for hearing on four issues as follows:

(1) Whether Chronicle Publishing Co., the parent of the licensee, has an undue concentration of control of the media of

mass communications in the San Francisco Bay area;

(2) Whether the Chonicle Publishing Co. has engaged in anticompetitive or monopolistic practices in the newspaper field in the San Francisco Bay area;

(3) Whether the licensee has used the facilities of Stations KRON–FM and KRON–TV to "manage" or slant the news and public affairs for the purpose of advancing the interests of the Chronicle Publishing Co.;

(4) Whether in the light of the evidence adduced pursuant to the foregoing issues, a grant of the above-captioned applications would serve the public interest, convenience, and necessity.

We stated at that time that we would further particularize the specification of facts and matter in issue in a later opinion. This specification follows:

Issue 1. Whether Chronicle Publishing Co., the parent of the licensee, has an undue concentration of control of the media of mass communications in the San Francisco Bay area;

1. KRON–TV and KRON–FM are wholly owned by the Chronicle Broadcasting Co., and are both assigned to San Francisco. San Francisco has eight television stations. Three, including KRON–TV, are commercial VHF stations, one is a noncommercial VHF, and four are commercial UHF. Oakland across the bay has one commercial VHF television station.[1] San Francisco and Oakland have 30 aural facilities of which 18 are FM.[2]

2. It further appears that the parent of Chronicle, the Chronicle Publishing Co., wholly owns Western Communications, Inc., which in turn holds (1) an 80 percent interest in Concord TV Cable, which owns and operates a community antenna television (CATV) system in the city of Concord, Calif., and serves unincorporated areas in Contra Costa County adjacent, to and/or near to, the city of Concord, (2) and 80 percent interest in County TV Cable, which owns and operates a CATV system in the unincorporated areas of San Mateo County, generally west of, and adjacent to, the boundaries of Redwod City, San Carlos, Belmont, and San Mateo, and (3) a 100 percent interest in Western TV Cable, which owns and operates a CATV system in the city of South San Francisco, Calif., and is an applicant for franchises in other northern California communities. Western TV Cable also possesses a franchise to own, construct and operate a CATV system in the city of San Francisco, Calif.

3. The Chronicle Broadcasting Co.'s parent, Chronicle Publishing Co., owns the San Francisco Chronicle. This newspaper is a daily morning paper and is published jointly on Sunday with the San Francisco Examiner, a daily evening paper, as the San Francisco Examiner & Chronicle. Oakland has the Oakland Tribune.[3] It further appears that Chronicle Publishing Co. has a 50 percent interest in the San Francisco Newspaper Printing Co., of which the other 50 percent is owned by Hearst Corp. Hearst Corp. owns the San Francisco Examiner, the only other major daily newspaper in San Francisco. The San Francisco Newspaper Printing Co. performs the mechanical, circulation, advertising, accounting, credit, and collection functions of the two newspapers, as well as for the San Francisco Sunday Examiner & Chronicle, San Francisco's only Sunday newspaper. It further appears that the Chronicle and the Examiner offer a combination rate permitting an advertiser who uses the Chronicle to have the advertisement appear in the Examiner by paying another 10 percent above the Chronicle's rate.

4. It is necessary to determine, in light of these facts, and under Issue 1, whether and, if so, to what extent the Chronicle Publishing Co. has an undue degree of control of the media of mass communications. In the light of information now available to the Commission, this ownership appears to be limited to the San Francisco Bay area. In any event, the hearing will explore the media influence of the Chronicle with regard to the following particular considerations:

a. The relevant geographic area or areas, whether the city of San Francisco, San Francisco-Oakland, or a wider area.

b. The extent to which the licensee of KRON–FM and KRON–TV, together with affiliated companies, have dominated the furnishing of local, regional, and national news and the presentation of information and discussion of public affairs in the relevant area or areas.

c. What particular effects, if any, have resulted from the present degree of concentration of control of the mass media in the area or areas in terms of diversity of approach to news and public affairs coverage and presentation.

d. Whether material for news broadcasts, editorials, public affairs, or any other programing broadcast by KRON–FM and KRON–TV has been directly or indirectly obtained from other media with which the stations are directly or indirectly affiliated, or is otherwise jointly obtained or prepared.

e. Whether the editorials, news, public affairs, or other programing broadcast by KRON–FM and KRON–TV have been subject in its creation, production or presentation to the review, judgment, control or other influence of other media (or persons associated with them) with which the stations are directly or indirectly affiliated, or of persons with business or ownership relationships to such media.

f. Whether the editorial and commentary treatment of public affairs of KRON–FM and KRON–TV has been similar to that of other media with which the stations are directly or indirectly affiliated.

g. Whether KRON–FM and KRON–TV programing has otherwise been affected by the other business interests of persons or companies with which the stations are directly or indirectly affiliated.

h. The nature and extent and effect of business relationships among the media of mass communications in the area or areas, and those persons with ownership interests in them, including:

(1) Whether any officer, director, or employee of the licensee has had an ownership interest in, or substantial business relationship (including employment) with, other mass communications media.

(2) Whether Chronicle Broadcasting Co. in any of its operations uses offices, facilities, equipment, or any other property or services in common with or owned by persons or entities which have ownership interest in, are subject to common ownership interest or common control with, or have substantial business relationships with local mass communications media.

(3) The nature of contracts or any other agreements between Chronicle Broadcasting Co. and entities in the area or areas which have ownership interest in, or are subject to common ownership interest or common control with Chronicle Broadcasting Co.

(4) The extent to which there are advertisers who deal with both Chronicle Broadcasting Co. and other local mass communications media in the area or areas which have ownership interest in or are subject to common ownership interest or common control with Chronicle Broadcasting Co., and the proportion of the revenues derived from these advertisers to the total billings of the individual media entities involved.

(5) The proportion of the advertising revenues of Chronicle Broadcasting Co. and the other mass communications entities in the area or areas which have ownership interest in or are subject to common ownership interest or common control with Chronicle to the total advertising revenues derived by all local mass communications media.

Issue 2. Whether the Chronicle Publishing Co. has engaged in anticompetitive or monopolistic practices in the newspaper field in the San Francisco Bay area.

1. Prior to 1965, there were three daily newspapers of general circulation in San Francisco: (1) The independently owned San Francisco Chronicle in the morning; (2) the Hearst-owned San Francisco Examiner in the morning; and (3) the Hearst-owned San Francisco News-Call Bulletin in the evening. On October 23, 1964, the Chronicle Publishing

[1] We also note that KRON–TV, as is the case with several other area stations, is carried by community antenna television systems with substantial numbers of subscribers.

[2] San Francisco is the largest city in northern California with a 1960 U.S. Census population of 740,316 and an estimated population of 806,204 in 1968. Oakland has a 1960 U.S. Census population of 367,548 and an estimated population of 389,000 in 1968.

[3] The circulation figures for San Francisco-Oakland newspapers as compiled by the Audit Bureau of Circulation, and reported in "Editor and Publisher Yearbook—1968" are as follows:

San Francisco Chronicle (morning)—Daily circulation—493,020.

San Francisco Examiner (evening)—Daily circulation—220,610.

San Francisco Examiner & Chronicle—Sunday circulation—691,510.

Oakland Tribune (evening)—Daily circulation—226,006.

Oakland Tribune—Sunday circulation—254,500.

Co. and Hearst Corp. executed an agreement to create a joint operating facility for their newspapers. The agreement contemplated the creation of the San Francisco Newspaper Printing Co., whose stock would be owned equally by Chronicle and Hearst. The new corporation would perform the mechanical, circulation, advertising, accounting, credit, and collection functions of the newspapers. The agreement was submitted to the Department of Justice and, on August 30, 1965, the Attorney General advised Hearst (and thereafter Chronicle) that it was not the Department's intention to institute antitrust action against implementation of the plan. On September 12, 1965, the agreement was put into effect. The Examiner was changed to an afternoon paper and the News-Call Bulletin was dropped, leaving one morning and one afternoon daily. The Sunday morning editions were combined into the single San Francisco Sunday Examiner & Chronicle.

2. It has been alleged as follows:

a. The Chronicle Publishing Co., in 1965 and prior thereto, used the profits of KRON–TV to cause the San Francisco Examiner, its morning competitor, to fail, thereby leaving the Chronicle with a morning newspaper monopoly. The Chronicle campaigned extensively to substantially increase circulation outside the San Francisco city zone by using the profits of KRON–TV. The Chronicle then claimed that it, not the Examiner, was the leading San Francisco newspaper. This conduct resulted in a switch of advertising from the Examiner to the Chronicle, causing the Examiner to fail.

b. It is also alleged that the Chronicle Publishing Co. has acquired and maintained an undue and monopolistic concentration of power in the communications field in San Francisco, with adverse competitive effects.[4]

3. The licensee by letter of October 28, 1968, has denied that its parent corporation has a monopoly and that there is an undue concentration of control of media in the San Francisco area. It also denies that KRON–TV profits were used to stifle competition, stating that prior to 1966, when Chronicle Publishing Co. was licensee of the stations, its profits were used for general corporate purposes.

4. On July 28, 1967, Mr. J. Hart Clinton, editor and publisher of the San Mateo (California) Times, appeared before the Senate Antitrust Subcommittee in connection with its consideration of S. 1312, the Failing Newspaper Act. The Times does not compete with either of the San Francisco newspapers in the San Francisco city area, but the Examiner does compete with the Times in San Mateo County. Mr. Clinton presented in his testimony three areas in which he alleged that the Chronicle Publishing Co. had engaged in anticompetitive activities:

a. The "failing newspaper" status of the San Francisco Examiner in 1965 was a result of the Chronicle's extension of its circulation outside the San Francisco city zone, through the use of KRON–TV profits to finance such circulation. The Chronicle became the leading morning newspaper, a position once enjoyed by the Examiner, through use of KRON–TV profits.

b. After the Chronicle and Examiner entered into the joint operating agreement in 1965, the Chronicle doubled its advertising rates. The Examiner (which has a nearby competitor, the Oakland Tribune) increased its rates by 50 percent and the newspapers offered to run an advertisement in both newspapers for just 10 percent more than the rate for the Chronicle alone. Since the Chronicle had a morning monopoly, advertisers wishing to advertise in the morning had to use it; after the advertiser paid the Chronicle rate there was great inducement to reach the afternoon audience by paying the additional 10 percent for Examiner coverage instead of paying the full afternoon rate of another newspaper in the area. As a result of the joint operating agreement, the San Mateo Times had experienced a drop in retail advertising lineage, especially from the San Francisco department stores. These stores used the combination rate to cover the San Mateo area in the afternoon instead of advertising separately in the Times.

c. Mr. Clinton was unable to obtain rights to publish certain syndicated news features in his San Mateo newspaper. His inability to buy the rights was due to the fact that the San Francisco newspapers had tied up the rights in northern California through rates paid by them to the feature distributors.

5. The President of Chronicle Publishing Co. also appeared before the Senate Antitrust Subcommittee. He denied that there was a connection between newspaper operations and the operation of the broadcast stations owned by Chronicle Publishing Co. He stated that the Chronicle's syndicated feature contracts did contain territorial restrictions and that the features tied up were not available to potential users in the geographical areas specified by the contracts.[5] Because the Chronicle territorial exclusivity was said to vary with each contract, he was unable to specify how many, if any, eliminated competition in the whole northern California area. In a letter dated December 11, 1967, to Senator Philip A. Hart, Chronicle Publishing Co.'s president further responded to testimony adverse to the Chronicle, not only by Mr. Clinton but by a Stanford University professor who testified that the Chronicle had spent thousands of dollars to tie up syndicated material, some of which it did not use, but wanted to keep others from using. He denied that the Chronicle contracted for material which it did not intend to use. He also denied that during the period prior to the joint operating agreement the Chronicle did not produce a sufficient cash flow (except in 1 year when newsprint costs increased) to sustain newspaper operations, and stated that, contrary to Mr. Clinton's testimony, the retail advertising lineage of the San Mateo Times increased by more than 33⅓ percent between 1964 and 1966 during which period the joint operating agreement was in effect.

6. These allegations and rejoinders raise unresolved questions of fact as to whether Chronicle has used its television profits in an attempt to monopolize newspaper ownership or control, and whether it has achieved ownership or control of the newspaper market to the extent that the existence of competitors is jeopardized by an inability to obtain rights to syndicated features or to otherwise compete with Chronicle's commercial practices.

Issue 3. Whether the licensee has used the facilities of Stations KRON–FM and KRON–TV to "manage" or slant the news and public affairs for the purpose of advancing the interests of Chronicle Publishing Co.

1. On September 11, 1968, the Commission received a letter from Albert Kihn, a KRON–TV cameraman for the past 8 years. Mr. Kihn alleged that ownership of KRON–TV by Chronicle Publishing Co. had resulted in management

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[4] These allegations are set forth in a telegram of Sept. 20, 1968, and a letter of Sept. 23, 1968 from a San Francisco attorney, Charles Cline Moore, on behalf of his client, Blanche Streeter.

In the applications to renew the licenses of stations KRON–FM and KRON–TV, the licensee submitted in response to Question 2 of Section 1 the following information concerning antitrust suits against the Chronicle Publishing Co.: A suit was filed by William F. Wyman against the Chronicle "* * * for injunctive relief under the antitrust laws because of an alleged combination to restrain trade in the production, circulation, and sale of newspapers." A second suit was instituted by Blanche Streeter "* * * for damages and other relief under the antitrust laws because of an alleged combination to restrain trade in the production, circulation, and sale of newspapers and in newspaper advertising, and the alleged unlawful acquisition of certain newspaper assets." The Streeter suit was dismissed by the U.S. District Court for the Northern District of California and, on Dec. 16, 1968, the plaintiff appealed to the Court of Appeals. This appeal is pending.

The licensee has also advised the Commission that on Mar. 11, 1969, Mr. Moore filed a suit against Chronicle Publishing Co., et al., on behalf of Guy McCauliff, alleging violations by Chronicle of sections 1 and 2 of the Sherman Act (15 U.S.C. Sections 1 and 2) and sections 4 and 7 of the Clayton Act (15 U.S.C. Sections 15 and 18). The suit asserts that Chronicle has used its profits from KRON–TV to: (1) Acquire a monopoly in the San Francisco Bay area newspaper market, and; (2) conspire with Hearst Corp. to monopolize the entire San Francisco Bay area newspaper market by eliminating competition in the printing and publishing of newspapers, in the solicitation of newspaper advertising, in fixing of arbitrarily high advertising rates and by entering into agreements with wire and news services to refuse to deal with and withhold their services from competitors of Chronicle and Hearst.

[5] The Department of Justice has filed suits against three of these feature syndicates (but not against the individual San Francisco newspapers) alleging that the contracts between these syndicates and the San Francisco newspapers, which preclude the licensing of features to other newspapers, are arbitrary and contain unreasonably broad territorial restrictions.

and slanting of news and public affairs in the publishing company's interests, giving examples which included specific alleged instructions to KRON–TV staff personnel. The major allegations of Mr. Kihn, with the licensee's responses thereto, are set forth below.

2. Mr. Kihn alleged that the KRON–TV news department was forbidden in 1965 to comment on the Chronicle-Examiner joint operating agreement, except for a "last minute statement dictated by Chronicle management." The licensee responded that the station did not discuss the proposed agreement because it was not privy to the plans of its parent, and therefore any story on KRON–TV would be based on speculation and rumor, and that any speculation by KRON–TV would appear to give credence to the rumors because of the station's relationship to one of the parties.

3. Mr. Kihn also alleged that KRON–TV suppressed news stories regarding strikes which might affect the San Francisco Chronicle. Instances of this alleged suppression are as follows:

a. In 1965 KRON–TV suspended all videotaping operation, eliminated public affairs taping and curtailed public news operations when there was a threatened strike against the newspaper. The licensee responded that some curtailment of public affairs (but not news) programing did occur because the station moved its mobile unit from the building housing the newspaper to another area, so that picketing of the newspaper would not disrupt the KRON–TV operation.

b. Mr. Kihn also alleged that KRON–TV failed to mention threatened strikes against the San Francisco newspapers in March 1965 and February 1966, and did not mention a strike against Station KGO–TV in May 1966. The licensee submitted evidence that the station did present news programing of the February 1966 strike. As to the threatened strike in 1965, the licensee stated that it determined the story not to be newsworthy, and that in fact the strike never took place. The licensee's response does not make clear to what extent, if any, it gave coverage to the strike against KGO–TV in 1966.

c. Mr. Kihn further complained that in KRON–TV coverage of the 55-day strike against Chronicle and Examiner in 1968 the news programs were "slanted in favor of the newspaper management." The licensee responded with evidence that six persons favoring the publishers' side of the strike and 20 persons favoring the union side appeared on KRON–TV. Twenty minutes and 43 seconds of news time were devoted to the representatives of the publishers, against 34 minutes and 51 seconds to the union representatives. The strike was mentioned on 51 days during the strike in 143 different news programs. Mr. Kihn alleged that the KRON–TV news staff was not allowed to use the words "merger" or "monopoly" in its news stories about the strike. The licensee did not deny this charge but implied that the union representatives appearing on the station did not use these terms.

d. Mr. Kihn complained that during the 1968 newspaper strike, KRON–TV did not "fill the gap" and provide expanded news coverage as promised.

4. Mr. Kihn set forth in his letter information which he said was evidence that Station KRON–TV managed its news and documentary programing to further the interest of Chronicle Publishing Co. in obtaining CATV franchises in the San Francisco area. Three examples were presented:

a. Mr. Kihn alleged that the KRON coverage of "the Chicken's Ball" in San Carlos, Calif., in 1968 was motivated by the Chronicle Publishing Co.'s desire to obtain a CATV franchise in that area. The licensee responded that KRON–TV had covered this biennial event since 1962, before its parent developed an interest in CATV, and that the 1968 coverage had no relationship to the CATV bid for the San Carlos area (which was submitted in August 1967).

b. The second allegation regarding CATV interests concerned a KRON–TV program on the opening of a new library in South San Francisco. Mr. Kihn said that he had been instructed to give the mayor prominence in the film, allegedly because the licensee's parent was "courting" the city for a CATV franchise. The licensee responded that the library dedication was filmed at the request of the library director and that no mention was made by management to employees regarding a connection between the coverage and the CATV interest.

c. Mr. Kihn's third allegation concerned the 1966 filming of a documentary program in the Vallejo, Calif., area. The writer assigned to the project allegedly did not favor a program about this area and told the KRON–TV management that in fact there was a scandal which could be exposed in the area. The writer was then allegedly told by the general manager (now president) of the licensee: "[L]ook, there's a reason for [the documentary], and the reason is that we want that cable franchise." The licensee's response, written by the alleged author of the quotation, stated that the general manager did mention to the writer that he had been in Vallejo for exploratory talks about CATV, and that a CATV interest might develop, but that the writer was not instructed to produce the documentary because of the CATV interest. The licensee also pointed out that the CATV interest in Vallejo was dropped prior to completion of the documentary, and that the Chronicle Publishing Co. never applied for a CATV franchise there. According to the licensee, the documentary dealt with towns in the area other than Vallejo (which occupied 38 percent of the program time).

5. Mr. Kihn later sent another letter dated December 22, 1968, which did not make reference to the licensee's December 12 response to the September 1968 letter, a copy of which had been sent to him. He termed this third letter a supplement to his original complaint, and stated that it would give a larger picture of "* * * KRON–TV policies and practices of news management in behalf of the licensee's own corporate interests and news preferences."

6. Mr. Kihn further alleged that in preparing a 1965 news item on Synanon, an organization of former drug addicts, the former KRON–TV news director stated that [W]e don't want to give these people any credence * * *." The licensee responded that it devoted more than 30 minutes in 14 separate news programs to Synanon in the 18-month period prior to the alleged remark. In addition, the station presented, in 1963, a 1-hour documentary on drug addiction, including the appearances of three Synanon directors. Also broadcast was an 1-hour documentary, in 1967, devoted entirely to the work of Synanon. Attached to the licensee's response was a letter from Synanon dated February 17, 1969, commending the station with respect to its publicity of the organization.

7. Mr. Kihn alleged that during August 1966, a documentary writer was ordered by the KRON–TV station manager to delete certain comments critical of advertising, because "[O]nly the cookoo fouls its own nest." The licensee responded that the unidentified documentary was probably a 1-hour program on venereal disease, and that the writer was told to delete certain material showing several magazines "* * * including their names, centerfolds, spreads and other material," which accentuated sex and sex symbols to "sell" youth. The licensee also stated that it deleted the material upon the advice of two attorneys who advised that the showing presented copyright and obscenity problems. The licensee stated that certain detrimental references to television advertising as using sex as an inducement for the sale of products were not deleted. The licensee's president, to whom the quotation was attributed, did not deny making the comment quoted above.

8. Mr. Kihn further complained that KRON–TV refused to carry political advertisements for subscription television (STV) in the months prior to a vote on this issue, and that in previous years the station had editorialized against STV. He also reiterated his charge that the licensee had presented a documentary on Vallejo to further its CATV interest. The CATV interest was desired because, as he quoted the KRON–TV general manager, "[I]t isn't now, but do you realize that all you have to do with that community antenna system is to stick a projector or a camera at the other end of it and you've got pay-TV." The licensee acknowledged that it did not carry the STV political advertisements during the period prior to the 1965 election on the issue, because it had adopted the policy of not accepting commercials for any of the controversial issues to be voted upon. The licensee denied that it had editorialized against STV. As to the motive for the broadcast of the documentary on Vallejo, the licensee reiterated its assertion that the program was unconnected with the business interest of its corporate parent. In addition, the licensee submitted letters from the city manager of Vallejo and the present mayor, to the effect that the telecast was the result

of a luncheon organized by the station for representatives of the north bay cities to discuss with the station how it could be of greater service to the area. At the luncheon, the city manager pointed out to the licensee's general manager the value of a documentary about Vallejo. The city manager, in his letter, stated his belief that the luncheon was held after the licensee's parent had abandoned interest in the city's proposed CATV franchise. The mayor stated that at no time did the general manager express to her an interest in CATV. The licensee also submitted a copy of the original letter from the Vallejo city manager requesting that the station do the documentary. The licensee's president reasserted his denial that the writer was told that the program was to be done because of the CATV interest.

9. Addressing himself again to the charge that KRON–TV was used to further the CATV interests of the Chronicle Publishing Co., Mr. Kihn alleged that the writer of a documentary about Eureka, Calif., in 1968, wanted to include in the film the point that Eureka was forcing small suburbs to consolidate by threatening to cut off their sewer services. The KRON–TV program director commented, "[W]e don't want to stir up the City Council. Some day we might be going up there to get a CATV franchise." The licensee responded with a statement by the writer to whom the statement was made that the comment was "made in jest. This was obvious to me at the time, and I may in talking to Al [Kihn], have failed to make the capricious nature of the statement obvious to him." The licensee commented that the documentary did contain the unfavorable references to Eureka, and that no one connected with the Chronicle Publishing Co. or its subsidiaries had ever applied for a CATV franchise in Eureka.

10. Mr. Kihn stated that on February 2, 1968, there was a newspaper strike meeting in San Francisco, and that a station reporter told his cameraman that "* * * he had received instructions to be circumspect in filming the various speeches to be made at this meeting." He also alleged that KRON–TV provided only "token" coverage of the event. The KRON–TV news director stated that he had never issued any such instructions. The licensee responded to the charge of token coverage by pointing out that the meeting took place on February 1 and that the station carried a sound on film statement on 6 p.m. news that day in which the president of the San Francisco Labor Council asserted the position of the council. This statement was included as an exhibit to the licensee's response, and contained a statement wherein the council called for a Government investigation of the antitrust aspects of the San Francisco newspaper situation.

11. Mr. Kihn furnished the Commission with two KRON–TV memoranda: One dated October 29, 1964, from the licensee's general manager (now president) to the news director and the station manager, and one dated April 6, 1967 from the news director, apparently to his staff. These memoranda are summarized as follows:

a. All stories relating to the public relations image of any radio or television station or its parent company or the networks, and stories relating to the individual acts of officers, directors, or employees of these organizations are to be brought to the attention of the general manager or station manager before broadcast. This restriction does not apply to individuals or corporations engaged in publishing, except for the Chronicle Publishing Co.

b. Any news story relating to broadcast industry labor problems or to local newspaper labor problems is to be cleared with the news director before broadcast. If the news director, program manager, or production manager cannot be contacted, the story is not to be run.

12. The licensee explained the memoranda as follows:

a. In October 1964, the station broadcast an inaccurate and one-sided news report of a strike against ABC. Because of the general manager's feeling that broadcast employees as a group seem to have an emotional reaction to their own industry, he issued the memorandum so that a representative of management could review all news stories concerning the broadcast industry "to insure their accuracy and objectivity." Management did not want disgruntled employees placing false or inaccurate stories on the air because of personal bias. Also, management wanted to check the accuracy of any story adverse to the Chronicle since the broadcast on KRON–TV would allegedly lend a special air of credence to the news item. The memorandum was also intended to prevent employees from airing laudatory stories with the intent of gaining favor thereby.

b. The second memorandum was prepared because most of the news employees were unionized and it was felt that news about specific strikes might not be presented fairly and impartially by some of them, where there is not management supervision. This memorandum was specifically triggered by the March 29, 1967, strike against the networks and their owned and operated stations. As to the second memorandum, the licensee reiterated its earlier statements of objectivity concerning strikes, and submitted as further evidence of its objectivity in matters concerning the Chronicle Publishing Co. the transcript of a September 1967 news broadcast wherein a director of the Bay Area Rapid Transit District called for a libel suit against the Chronicle. In sum, the licensee asserted that the memoranda "* * * do no more than insure that there will be adequate licensee control of news in specific sensitive areas."

13. On September 20, 1968, the Commission received a letter from Mr. Jeff Berner asserting that he had been suspended from his position of columnist with the Chronicle because of an article he had written criticizing violence on television. Mr. Berner further complained that an article written by Charles McCabe (another Chronicle columnist) had been censored because the article urged "citizens to contact the FCC about violence on television." Finally Mr. Berner claims "[I]t is part of the folklore around the newspaper that Mr. Thieriot [the Chronicle owner] does not like any criticism of the TV medium, as his principle revenues derive from that source." The licensee responded in a letter of October 2, 1968, maintaining that "[T]here is simply nothing to this charge."

14. These allegations and the licensee's responses leave substantial unresolved fact questions with respect to the issue of whether the licensee has attempted to slant news and public affairs programs to serve its business interests. It should be emphasized to the parties that this issue has been designated not to institute a generalized examination of the station's programs to determine whether they are "unfair" but because of the presence of outside business interests and specific allegations that the preparation of programs has been deliberately made compatible with those interests. See, Letter to National Broadcasting Co. regarding Chet Huntley Broadcast, 14 FCC 2d 713, Letter to Networks regarding Democratic National Convention, 16 FCC 2d 650. For this reason, we have omitted certain allegations by Mr. Kihn that appear to raise only questions of licensee news judgment.

15. *It is further ordered,* That the times within which to file a petition for reconsideration under § 1.111 of the rules and to file a motion addressed to the issues under § 1.229 are enlarged to 20 days from the release of this order.

Adopted: April 16, 1969.

Released: April 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69–4999; Filed, Apr. 25, 1969; 8:47 a.m.]

[Docket No. 18499; FCC 69–373]

MIDWEST RADIO-TELEVISION, INC.

Specification Order

In re applications of Midwest Radio-Television, Inc., for renewal of licenses of Stations WCCO and WCCO–TV, Minneapolis, Minn., Docket No. 18499, File No. BR–659, File No. BRCT–49.

1. These applications were designated for hearing by order released March 21, 1969 (FCC 69–261), upon the following issues:

a. To determine whether the licensee and its owners have an undue concentration of control of the media of mass communications in the Minneapolis-St. Paul area.

b. To determine whether or not Midwest Radio-Television, Inc., has used its position in the newspaper field so as to

[1] Chairman Hyde dissenting. Dissenting statement of Commissioner Robert E. Lee filed as part of the original document. Commissioner Wadsworth abstaining from voting. Commissioner H. Rex Lee not participating.

obtain rights to broadcast sporting events, particularly in the area of professional baseball, football, and hockey teams.

c. To determine whether or not newspaper ownership of broadcast facilities in the Minneapolis-St. Paul area has resulted in reciprocal advantages to Midwest Radio-Television, Inc., to the disadvantage of competing broadcast licensees.

d. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the above-captioned renewal applications would serve the public interest.

At that time, we stated that we would issue a subsequent specification of the facts and matters to be examined in the hearing. This specification follows:[1]

Issue a. To determine whether the licensee and its owners have an undue concentration of control of the media of mass communications in the Minneapolis-St. Paul area.

2. WCCO and WCCO–TV are licensed to Midwest Radio-TV, Inc. (Midwest), which owns 100 percent of a community antenna television system in Rice Lake, Wis., and is owned 53 percent by Midcontinent Radio-TV and 47 percent by the Minneapolis Star and Tribune Co. The latter company publishes the only two general circulation Minneapolis daily newspapers, the Star and the Tribune; owns a community antenna television system in South Sioux City, Nebr.; 93 percent of the Wichita-Hutchinson Co., licensee of KTVH–TV, Hutchinson-Wichita, Kans. (application to sell now pending); 50 percent of Harpers Magazine; the San Fernando Valley Times Co., which publishes the San Fernando Valley (California) Times; the Rapid City (South Dakota) Journal; and the Great Falls (Montana) Tribune and Leader.

3. The Minneapolis Star and Tribune Co. is owned in part (9.9 percent) by the Des Moines Register and Tribune, which publishes the Register and the Tribune, Des Moines, Iowa. There are also common ownership interests linking the Des Moines Register and Tribune, Cowles Communications, Inc. (CCI), and Indian River Newspapers, which publishes the Fort Pierce (Florida) News-Tribune. CCI publishes Look Magazine, Family Circle Magazine, Venture Magazine, the San Juan (Puerto Rico) Star, the Gainesville (Florida) Sun, the Lakeland (Florida) Ledger, the Suffolk (New York) Sun, the Education News, the Cowles Comprehensive Encyclopedia, and Magazines for Industry, Inc. (Paperboard Packaging Magazine). CCI is also the licensee of KRNT–AM–TV, Des Moines, Iowa, owns Cowles Broadcasting Service, Inc., the licensee of WREC–AM–TV, Memphis, Tenn., and owns Cowles Florida Broadcasting, Inc., licensee of WESH–TV, Orlando, Fla.[2] It also has part interest in a community antenna television system in Memphis and Shelby County, Tenn.

4. Midcontinent is owned equally by Northwest Publications, Inc. (Northwest), and M.T.C. Properties, Inc. Northwest publishes the only two general circulation daily St. Paul newspapers, the Dispatch and the Pioneer Press, and the Duluth News Tribune and the Herald, is licensee of WDSM–AM–TV, Duluth-Superior, Wis., the licensee of station KSSS, Colorado Springs, Colo., and owns 80 percent of the Aberdeen News Co., which publishes the Aberdeen American News and is licensee of KSDN, Aberdeen, S. Dak. Northwest also is a joint venturer in San Jose Cable TV Service, a franchise holder in Campbell and San Jose, Calif. Seventy-three percent of the Northwest stock is owned by Ridder Publications, Inc. (Ridder), which is controlled by the Ridder family. Ridder publishes the Grand Forks (North Dakota) Herald, San Jose (California) Mercury, San Jose (California) News, Long Beach (California) Independent, Long Beach (California) Press Telegram, Pasadena (California) Star News, Garden Grove (California) Orange County News, Gary (Indiana) Post Tribune, and has a minority interest in the Seattle (Washington) Times.

5. Minneapolis and St. Paul appear to constitute a single market for radio, television, and newspapers. As noted above, there are no other general circulation daily newspapers than those connected with WCCO and WCCO–TV. There are four commercial television stations in Minneapolis-St. Paul, and two noncommercial, educational stations. There are 17 standard broadcast (AM) stations. WCCO–TV had 31 percent of total television revenues and 33 percent of total television income in 1967. WCCO had 56 percent of total AM revenues and 112 percent of total AM income.[3] A recent ARB survey cited in Mr. Konynenburg's letter of June 19, 1968, shows that "* * * typically, WCCO Radio [is] first among all stations with four times the audience of any of its next three competitors * * *."

6. The foregoing information indicates the degree of integration of the media of mass communications in the Minneapolis-St. Paul area, and the extent to which WCCO and WCCO–TV are controlled by persons with substantial interests in the other media in the area. It also indicates substantial interlocking interests in media of mass communications beyond the Minneapolis-St. Paul area, whose full extent remains to be determined. In light of these facts, it is necessary to determine under Issue a, whether such a degree of concentration of control in the immediate area is compatible with the public interest. It is also necessary to determine whether there is an undue concentration of control on a wider geographical basis going beyond Minneapolis and St. Paul. Issue a will accordingly be amended herein to broaden its scope in this respect. As amended it will include consideration of the following areas of inquiry (in addition to facts adduced under Issues b and c):

1. The nature and extent of all substantial interlocking relationships affecting ownership or control among WCCO and WCCO–TV and other mass communications media in the United States.

2. The extent of control which the licensee of WCCO and WCCO–TV together with directly or indirectly affiliated companies have over the furnishing of local, regional, and national news and the presentation of information and discussion of public affairs in the Minneapolis-St. Paul area and any broader area.

3. What particular effects, if any, have resulted from the present degree of concentration of control of the mass media in Minneapolis-St. Paul and any broader area in terms of diversity of approach to news and public affairs coverage and presentation?

4. Whether material for news broadcasts, editorals, public affairs or any other programing broadcast by WCCO and WCCO–TV has been directly or indirectly obtained from other media with which the stations are directly or indirectly affiliated, or is otherwise jointly obtained or prepared.

5. Whether the editorials, news, public affairs, or other programing broadcast by WCCO and WCCO–TV has been subject in its creation, production or presentation to the review, judgment, control, or other influence of other media (or persons associated with them) with which the stations are directly or indirectly affiliated, or of persons with business or ownership relationships to such media.

6. Whether the editorial and commentary treatment of public affairs by WCCO and WCCO–TV has been the same or substantially similar to that of other media with which the stations are directly or indirectly affiliated.

7. Whether WCCO and WCCO–TV programing has otherwise been affected by the other business interests of persons or companies with which the stations are directly or indirectly affiliated.

8. The nature, extent and effect of business relationships among the media of mass communications in Minneapolis-St. Paul and elsewhere (and those persons with ownership interests in them), connected directly or indirectly by ownership, control, or other influence with WCCO and WCCO–TV, including:

(A) Whether any officer, director, or employee of the licensee has had an ownership interest in, or substantial business relationship (including employment) with, other mass communications media in Minneapolis-St. Paul or elsewhere directly or indirectly affiliated with the licensee.

(B) Whether Midwest Radio-Television, Inc., in any of its operations uses offices, facilities, or substantial equipment or other property or services in common with or owned by any directly or indirectly affiliated persons or entities, or persons or entities having a substantial business relationship with the latter.

[1] The hearing order stated that it was based in part upon allegations by Mr. Garfield Clark, manager of station KSTP, St. Paul, Minn., licensed to Hubbard Broadcasting, Inc., submitted to the U.S. Senate Antitrust Subcommittee in connection with its consideration of S.1312, the Failing Newspaper Act, a response by Mr. F. Van Konynenburg, President of Midwest Radio-Television, Inc., of June 19, 1968, and a reply by Mr. Clark on Sept. 3, 1968.

[2] John H. Perry, Jr., a director of Cowles Communications, Inc., who owns no stock of that corporation but is one of three trustees of a 6.6 percent stockholder, is a majority stockholder of Perry Publications, which owns 47½ percent of the News Journal Corp., licensee of station WNDB, Daytona Beach, Fla., and publisher of the Daytona Beach News and the Daytona Beach Journal.

[3] The income related percentage is possible because of the net losses of stations competing in the market.

(C) The nature of substantial contracts or other agreements between Midwest Radio-Television, Inc., and directly or indirectly affiliated persons or entities, or persons or entities having a substantial business relationship with the latter.

(D) The extent to which there are advertisers who deal with both Midwest Radio-Television, Inc., and other directly or indirectly affiliated mass communications media in Minneapolis-St. Paul or elsewhere, and the proportion of the revenues derived from these advertisers to the total billings of the individual media entities involved.

(E) The proportion of the advertising revenues of Midwest Radio-Television, Inc., and the other mass communications entities in Minneapolis-St. Paul which have ownership interest in or are subject to common ownership interest or common control with Midwest Radio-Television, Inc., to the total advertising revenues derived by all local mass communications media in the Minneapolis-St. Paul area, and the same data as between all directly or indirectly affiliated entities and total revenues in the United States or other relevant areas.

Issue b. To determine whether or not Midwest Radio-Television, Inc., has used its position in the newspaper field so as to obtain rights to broadcast sporting events, particularly in the area of professional baseball, football, and hockey teams.

7. On this issue, Mr. Clark (see footnote 1, supra) has referred to the large number of professional athletic events in the Minneapolis-St. Paul area to which Midwest has obtained the broadcast rights. For example, Midwest has had radio broadcast rights to the Minnesota Vikings football games since 1960, when the rights first became available; home games are blacked out on television and CBS, with which WCCO–TV is affiliated, has the television rights for away games. The preseason football games to which television rights are available have been obtained on various occasions either by WCCO–TV or WTCN–TV. Midwest obtained the radio broadcast rights for the Minnesota North Stars hockey games in 1967, when these rights first became available; television rights were awarded to WTCN–TV instead of WCCO–TV. Radio broadcast rights for the Minnesota Twins baseball games are owned by the Hamm Brewing Co., and WCCO has broadcast the games since 1960, again when the rights first became available. In 1960 and 1963 Midwest submitted bids for the television rights to the Twins games, but both times the bids were rejected in favor of WTCN–TV, the present owner of the rights.

8. Mr. Clark alleges that one reason for Midwest's obtaining the rights to broadcast these professional sporting events is that the joint ownership of the broadcast media and sports teams offered Midwest an advantage in the bidding for these broadcast rights. Concerning these allegations, it appears that Northwest Publications, which has a substantial ownership interest in Midwest, owns 21.7 percent of the Class A (nonvoting) common stock and 30 percent of the Class B (voting) common stock of the Minnesota Vikings professional football team. Mr. Bernard Ridder, Jr., President of Northwest and a Vice-President of Midwest, is a Director and Chairman of the Board of the Vikings. Mr. Robert Ridder (Chairman of the Board of Midwest) is a director of and owns a 2 percent stock interest in the Minnesota North Stars hockey team. Mr. Henry Dornseif (Vice-President for Finance and a Director of Midwest) owns one-half percent of the North Stars stock. Midwest owns one-half percent of the stock of the Minnesota Twins professional baseball team.

9. Mr. Clark also alleges that Midwest was aided by its newspaper connections in bidding for the broadcast rights to various sports events because "* * * if the games were not broadcast on WCCO, it would adversely effect [sic] the publicity which the team presently receives in newspapers published by the owners of WCCO."[4]

10. Mr. Van Konynenburg of Midwest, in his letter of June 19, 1968, disputes Mr. Clark's contentions, noting that WCCO interests have only nominal ownership in professional hockey and baseball teams and minority ownership in the football team, and that Midwest "* * * has no control over the coverage the local papers give to sports matters and in the bidding for broadcast rights—AM or TV—never presumes to give any assurances as to what that coverage may be."[5] He ascribes Midwest's success in obtaining broadcast rights to professional sporting events to such factors as organization and competitive ability, experience and reputation in the sports field, coverage and audience popularity and interest in professional sports. He further notes, to negate Mr. Clark's allegation that Midwest has a competitive advantage through its ownership connections, that WTCN–TV, Minneapolis, Minn., has obtained rights to broadcast professional baseball and hockey and some preseason football in competitive bidding with Midwest's television station.[6]

11. There is a substantial question of fact raised by the foregoing pattern and by the consideration that the ownership of these professional teams and the owners of Midwest and the local newspapers do to some extent coincide. We must resolve the factual questions raised by Mr. Clark's allegations and Mr. Van Konynenburg's rebuttal. As part of this inquiry, we shall inquire into the following matters:

(a) Were the contracts by which Midwest obtained broadcast rights to professional baseball, football, and hockey games acquired by competitive bidding and what were the bids of other stations which were rejected in the award of these contracts. What were the terms of the contracts?

(b) To what extent have sporting events of local interest other than professional baseball, football, and hockey been broadcast by WCCO, WCCO–TV or their competitors.

(c) The advertising revenues and profits derived by WCCO and WCCO–TV through the presentation of sporting events, especially those of professional teams to which these stations are connected by direct or indirect ownership interest.

(d) To what extent, if any, do Minneapolis-St. Paul newspapers or their staffs by agreement, policy or practice, join with the stations of Midwest Radio-Television, Inc., or their staffs in promotions or publicity campaigns to benefit sports teams, especially those professional teams whose games are broadcast by WCCO or WCCO–TV.

Issue c. To determine whether or not newspaper ownership of broadcast facilities in the Minneapolis-St. Paul area has resulted in reciprocal advantage to Midwest Radio-Television, Inc., to the disadvantage of competing broadcast licensees.

12. In his letter of September 3, 1968, Mr. Clark alleged that a recent advertising campaign by WCCO–TV had been undertaken to build up its news broadcast audience. The cost of this campaign was indicated to be in excess of $120,000, a large portion of which went into newspaper advertising. He alleges that this activity is possible economically for WCCO–TV in a way that the station's competitors cannot duplicate because the ownership of the station rests with the newspapers and other entities with newspaper interests, making the advertising campaign largely an exercise in bookkeeping.[7]

13. Mr. Clark further alleged in his statement before the Senate Antitrust Subcommittee and in his letter of September 3, 1968, that the Minneapolis-St. Paul newspapers which are directly or indirectly connected through financial interests with Midwest Radio-Television, Inc., favor Midwest's stations by failing to mention KSTP programing. Specifically he claimed that the Minneapolis Star and Tribune failed to carry special KSTP–TV programing in the "Highlights" column for approximately 6 weeks at the beginning of 1968 and, in so doing, favored a newly introduced program over WCCO–TV which was mentioned in the column. Also, Mr. Clark alleged that the St. Paul papers refused to mention the KSTP call letters editorally.

14. Mr. Van Konynenburg denied that WCCO radio or television received preferential treatment from the newspapers, and complained that their own special programing is often unfairly ignored in the programing columns of Twin Cities' newspapers in favor of routine programs of other stations. He also stated that the St. Paul newspapers' failure to mention specific call letters applied to all local stations, including WCCO.

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[4] Statement of Mr. Garfield Clark before the Senate Antitrust Subcommittee, Mar. 1968, pp. 2–3.

[5] Letter of Mr. F. Van Konynenburg, June 18, 1968, p. 11.

[6] Mr. Clark says of WTCN–TV's success in obtaining sports programing that "* * * [o]ne can readily understand the deviation when one becomes aware that the baseball team requires 50 telecasts each season," and that "* * * such number of broadcasts preempting network prime time would cause a great loss in revenue and goodwill to WCCO–TV from the network * * *" (Letter of Mr. Garfield Clark, Sept. 3, 1968, p. 3).

[7] Letter of Mr. Garfield Clark, dated Sept. 3, 1968, p. 2.

15. The practices mentioned above raise the question whether there is a business relationship between Midwest Radio Television, Inc., and the newspapers of the Minneapolis-St. Paul area which could favor Midwest over competing broadcast entities which have no financial connection through direct or indirect ownership interest with newspapers. In this connection, inquiry is necessary into the following matters:

(a) The extent of financial dealings for advertising, other services or products, between Midwest Radio-Television, Inc., and the Minneapolis-St. Paul newspapers.

(b) Whether the Minneapolis-St. Paul newspapers have policies, agreements, or understandings concerning the reporting of radio or television daily programing and the mention of station call signs generally.

(c) Whether the Minneapolis-St. Paul newspapers have in practice sold more advertisement space to or mentioned more often in their pages the programing of and the call signs of the stations owned by Midwest Radio-Television, Inc., than other stations in the market, and whether there is any understanding or policy in this respect.

(d) Whether the stations owned by Midwest Radio-Television, Inc., have advertising rates or practices related by agreement, contract, policy or practice to the advertising rates and practices of the Minneapolis-St. Paul newspapers.

16. *It is ordered,* That Issue a is amended to read as follows:

Issue a. To determine whether the licensee and its owners have an undue concentration of control of the media of mass communications in the Minneapolis-St. Paul area or any broader geographic area including Minneapolis-St. Paul.

17. *It is further ordered,* That the times within which to file a petition for reconsideration under § 1.111 of the rules and to file a motion addressed to the issues under § 1.229 are enlarged to 30 days from publication of this order in the FEDERAL REGISTER.

Adopted: April 16, 1969.

Released: April 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-5000; Filed, Apr. 25, 1969; 8:47 a.m.]

[Docket No. 18505]

TV SIGNAL SPECIFICATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of inquiry into possible change in certain TV signal specifications contained in §§ 73.682 and 73.699 of the rules to facilitate international program exchange.

1. On March 25, 1969, the Commission released a notice of inquiry in this proceeding (FCC 69-288) inviting comments on a proposal to adopt more uniform technical specifications for television broadcast signals to facilitate the international exchange of programs by satellite and other means. The time for filing comments was designated as April 21, 1969, and that for replies as April 29, 1969.

2. On April 16, 1969, Electronics Industries Association (EIA) filed a request for extension of time in which to file comments. EIA states the additional time is needed in order to generate and coordinate industry comments that would be useful in instructing the United States CCIR delegation in the matter of allocating certain television scanning lines of the vertical blanking interval for transmission of signal to test the performance of international circuits. It further states that there are many other complexities contained in the docket which require considerable study and coordination.

3. We are of the view that additional time is warranted and would serve the public interest. However, we feel that an extension of 60 days instead of the requested 90 days would be sufficient time in which to prepare the comments. It is important to get this matter resolved in time for the forthcoming international conference. *Accordingly, it is ordered,* That the request for extension of time filed by Electronics Industries Association is granted in part and the time is extended to and including June 16, 1969, for the filing of comments and to and including June 30, 1969, for the filing of reply comments in this proceeding.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: April 21, 1969.

Released: April 22, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 69-5006; Filed, Apr. 25, 1969; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

TRANS-PACIFIC FREIGHT CONFERENCE (HONG KONG)

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

William L. Griffin, Esq., Law Offices, Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 14-28, would modify the basic agreement of the Trans-Pacific Freight Conference (Hong Kong), Agreement No. 14 as amended, by amending Article 5 to permit voting by proxy. Under this procedure, one member line could give its proxy to another so long as the Chairman/Secretary is notified of the fact through receipt of a copy of such an appointment.

Dated: April 22, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-4996; Filed, Apr. 25, 1969; 8:47 a.m.]

[Docket No. 69-18]

STRIKE SURCHARGES—NORTH ATLANTIC/CONTINENT TRADES

Order To Show Cause

The North Atlantic Continental Freight Conference (outbound) operates pursuant to Commission approved Agreement 9214 from U.S. North Atlantic ports in the Eastport, Maine/Hampton Roads Range to ports in Belgium, Holland, and Germany (excluding German Baltic ports). On December 1, 1968, this conference established a 5 percent general freight rate increase. On March 10, 1969, it placed into effect a 10 percent surcharge to enable the lines to recover expenses directly relating to the U.S. longshoremen's strike.[1]

The Continental North Atlantic Westbound Freight Conference (inbound) operates pursuant to Commission approved Agreement 8210 from ports of Germany, the Netherlands, and Belgium in the range between Hamburg (included), and boundary line of Belgium and France to U.S. North Atlantic ports in the Hampton Roads/Portland, Maine range. This conference did not establish any strike surcharge.

[8] Chairman Hyde dissenting. Dissenting statement of Commissioner Robert E. Lee filed as part of the original document. Commissioner Wadsworth abstaining from voting. Commissioner H. Rex Lee concurring in the result.

[1] Recently the conference amended its tariff to terminate the strike surcharge and institute a 15 percent general freight rate increase subject to a maximum of $6 per ton as freighted, effective June 1, 1969.

The outbound group maintains a membership of 10 carriers—4 American flag and 6 foreign flag. The inbound group consists of seven carriers—four American flag and three foreign flag. The seven members of the inbound group are also members of the outbound group.

The organic agreement of the outbound conference (No. 9214) indicates that rates are fixed based upon a three-quarters majority vote of those members present at meetings. The organic agreement of the inbound conference (No. 8210) indicates the same voting requirements governing the establishment of rates.

The facts within the competence of the Commission, which are recited above, show that the outbound conference instituted a strike surcharge to recoup losses from the most recent longshoremen's strike; the inbound conference did not institute such a surcharge. It would appear that the identity of membership is such that the same carriers could have, through their majority standing in both conferences, instituted a surcharge in in both directions. It further appears that the strike imposed similar, if not equal expenses, upon the carriers in the trades. Therefore, it would appear that the carriers who are members of both conferences and exercise control over both conferences through the relevant voting provisions have elected to recoup their strike expenses through the imposition of an outbound surcharge only.

It appears that this imposition of charges against the outbound movement only imposes a burden upon shippers in the United States which burden should be prorated among all the users of the carriers' service, both inbound and outbound. This inequality of treatment which is made effective through the machinery of approved section 15 agreements appears to be detrimental to the commerce of the United States and contrary to the public interest. It therefore appears that the agreements have operated in a manner in violation of section 15.

Now therefore, it is ordered, That the respondents, as shown in Appendix A, show cause why they should not be found to be in violation of section 15 because through their affirmative vote or through their nonaction they are responsible for the inequitable apportionment of a strike surcharge, and therefore, why the Commission should not order elimination of the inequity.

It is further ordered, That this proceeding shall be limited to the submission of affidavits and memoranda, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing and affidavits of fact and memoranda of law shall be filed no later than close of business May 6, 1969. Replies shall be due on May 16, 1969. Date and time of oral argument will be announced at a later date.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon all parties of record a list of whom is attached as Appendix A.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties in this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR § 502.72).

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies and shall be mailed directly to all parties of record.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

APPENDIX A

North Atlantic Continental Freight Conference, 17 Battery Place, New York, N.Y. 10004.
Continental North Atlantic Westbound Freight Conference, 79 Jozef de Bomstraat, Antwerpen 1, Belgium.
American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y. 10004.
Atlantic Container Line, Ltd., 26 Broadway, New York, N.Y. 10004.
Belgian Line, Compagnie Maritime Belge (Lloyd Royal), S.A., 61 St Katelijnevest, Antwerpen, Belgium.
French Line, Compagnie Generale Transatlantique, 6 Rue Auber, Paris 9, France.
Hamburg-American Line, Hamburg-Amerika Linie, Ballindamm 25, Hamburg, Germany.
Holland-America Line, N.V. Nederlandsch-Amerikaansche, Stoomvaart-Maatschappij, Wilhelminakade 86, Post Office Box 486, Rotterdam, Holland.
Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.
North German Lloyd, Norddeutscher Lloyd, Schliessfach 47 (23), Bremen, Germany.
Sea-Land Service, Inc., Post Office Box 1050, Elizabeth, N.J. 07207.
United States Lines, United States Lines, Inc., 1 Broadway, New York, N.Y. 10004.

[F.R. Doc. 69-5070; Filed, Apr. 25, 1969; 8:48 a.m.]

FOREIGN-TRADE ZONES BOARD

[Foreign-Trade Zone 9]

PIER 39, HONOLULU, HAWAII; APPLICATION FOR EXPANSION OF BOUNDARY

Notice of Filing and Investigation

Notice is hereby given that an application has been made to the Foreign-Trade Zones Board by the State of Hawaii, grantee of Foreign-Trade Zone No. 9, located at Pier 39, Honolulu, Hawaii, for permission to contiguously expand the boundaries of said Zone No. 9, pursuant to the provisions of the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998-1003; 19 U.S.C. 81a-81u). The grant authorizing the establishment of Zone No. 9 was issued on February 15, 1965 (Board Order No. 65; 30 F.R. 2377, February 20, 1965). The requested expansion would add approximately 113,525 sq. ft. of covered storage area within the pier shed of Pier 39 and contiguous to the pier shed area of the existing zone. The grantee's original application contemplated future expansion to permit utilization of additional space within the Pier 39 area.

The Acting Executive Secretary of the Foreign-Trade Zones Board, pursuant to the Foreign-Trade Zones Board Regulations (15 CFR Part 400), designated Jerome Sachs, Director, Transportation and Insurance Division, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C., as Examiner to investigate the application for compliance with the filing requirements of said regulations. The application was found to be in order on April 16, 1969. Accordingly, the Acting Executive Secretary has appointed an Examiners Committee composed of: Jerome Sachs, Chairman; Ernest I. Murai, District Director of Customs, U.S. Bureau of Customs, Honolulu, Hawaii; and, Col. John A. Hughes, U.S. Army District Engineer, Honolulu District, Corps of Engineers, Fort Armstrong, Honolulu, Hawaii, to conduct an investigation of the application and report thereon to the Foreign-Trade Zones Board.

A copy of the application and accompanying exhibits is available for public inspection at the Office of the District Director of Customs, U.S. Bureau of Customs, Room 228, Federal Building, Honolulu, Hawaii, and at the Office of the Executive Secretary of the Foreign-Trade Zones Board, Room 3325, U.S. Department of Commerce, Washington, D.C.

Notice is hereby given that, in connection with its consideration of the application, the Examiners Committee invites interested persons to submit their written views regarding the application. Such views must be submitted in writing to Mr. Jerome Sachs, Chairman of the Examiners Committee (Hawaii- Contiguous Expansion), Foreign-Trade Zones Board, Washington, D.C. 20230, within 30 calendar days of the publication of this notice in the FEDERAL REGISTER.

Dated: April 22, 1969.

JOHN J. DA PONTE,
Acting Executive Secretary,
Foreign-Trade Zones Board.

[F.R. Doc. 69-4986; Filed, Apr. 25, 1969; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

TOP NOTCH URANIUM AND MINING CORP.

Order Suspending Trading

APRIL 22, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common

stock of Top Notch Uranium and Mining Corp., a Utah corporation, and all other securities of Top Notch Uranium and Mining Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 23, 1969, through May 2, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-4984; Filed, Apr. 25, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 1002; Car Distribution Direction No. 28-A]

LOUISVILLE AND NASHVILLE RAILROAD CO., AND ILLINOIS CENTRAL RAILROAD CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 28 (Louisville and Nashville Railroad Co.; Illinois Central Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 28 be, and it is hereby vacated.

It is further ordered, That this order shall become effective at 4 p.m., April 22, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 22, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] N. THOMAS HARRIS, *Agent.*

[F.R. Doc. 69-5002; Filed, Apr. 25, 1969; 8:47 a.m.]

[Notice 820]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 23, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed wth the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 57 TA), filed April 17, 1969. Applicant: PAUL E. MERRILL, doing business as MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04104. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, in tank vehicles, from Plattsburg, N.Y., to points in Vermont, for 150 days. Supporting shipper: Green Mountain Petroleum Corp., 345 Pine Street, Burlington, Vt. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 30837 (Sub-No. 368 TA), filed April 17, 1969. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Seat cabs,* in truckaway service, from Waterloo, Iowa, to Racine, Wis., for 180 days. Supporting shipper: J. I. Case Co., Racine, Wis. 53404 (James P. Mooney, Traffic Department, Components Division, Clausen Plant). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 30867 (Sub-No. 176 TA), filed April 17, 1969. Applicant: CENTRAL FREIGHT LINES, INC., 303 South 12th Street, Post Office Box 238, Waco, Tex. 76703. Applicant's representative: H. L. Patterson (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission in 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); (1) between Waco, Tex., and Hempstead, Tex., from Waco over Texas Highway 6 to Hempstead, and return over the same route, serving all intermediate points; and (2) between Caldwell, Tex., and Bryan, Tex., from Caldwell, over Texas Highway 21 to Bryan, and return over the same route, serving all intermediate points, for 150 days. NOTE: Applicant does propose to tack and coordinate the above with all presently held authority, and to interline with other carriers. Supporting shippers: There are approximately 38 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Billy R. Reid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 61396 (Sub-No. 215 TA), filed April 17, 1969. Applicant: HERMAN BROS. INC., 2501 North 11 Street, Omaha, Nebr. 68103. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Vegetable oil* (edible), in bulk, in tank vehicles, from Archer Daniels Midland Plant near Lincoln, Nebr., to points in Iowa, Kansas, Missouri, South Dakota, and Minnesota, for 180 days. Supporting shipper: Archer Daniels Midland Co., 4666 Faries Parkway, Decatur, Ill. 62526 (William J. Whiting). Send protests to: Keith P. Kohrs, District Supervisor, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 107496 (Sub-No. 726 TA), filed April 17, 1969. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Edible vegetable oils,* in bulk, in tank vehicles, from Lincoln, Nebr., to points in Kansas, Minnesota, South Dakota, Iowa, and Missouri, for 150 days. Supporting shipper: Archer Daniels Midland Co., 4666 Faries Parkway, Decatur, Ill. 62526. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 727 TA), filed April 17, 1969. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, in tank vehicles, from Huntington, Ind., to St. Marys and Lima, Ohio, for 150 days. Supporting shipper: Cheker Oil Co., Post Office Box 216, Chicago Heights, Ill. 60411. Send protests to: Eillis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 115669 (Sub-No. 100 TA), filed April 17, 1969. Applicant: HOWARD N.

DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, Nebr. 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and ingredients thereof* (other than liquid), from the plantsite of Schreiber Mills, Inc., at St. Joseph, Mo., to points in Iowa and Nebraska, restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper: Schreiber Mills, Inc., St. Joseph, Mo. 64502. Send protests to: District Supervisor Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 119543 (Sub-No. 6 TA), filed April 17, 1969. Applicant: HENRY N. LANCIANI, Leominster Road, Sterling, Mass. 01564. Applicant's representative: Arthur A. Wentzell, Post Office Box 720, Worcester, Mass. 01601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump vehicles, from West Upton, Mass., to Amesbury, Beverly, Boston, Bridgewater, Brockton, Concord, Easton, Fitchburg, Franklin, Graniteville, Lawrence, Lowell, Lynn, North Andover, Norwood, Walpole, Whitman, Winchendon, Wollaston, Worcester, Mass., and Brentwood, Laconia, and Nashua, N.H., for 150 days. Supporting shippers: Philadelphia Coke Division, Eastern Associated Coal Corp., Philadelphia, Pa., and 26 consignees. Send protests to: District Supervisor Joseph W. Balin, Bureau of Operations, Interstate Commerce Commission, Room 338, Federal Building, Springfield, Mass. 01103.

No. MC 119702 (Sub-No. 35 TA), filed April 17, 1969. Applicant: STAHLY CARTAGE CO., Post Office Box 486, 130A Hillsboro Avenue, Edwardsville, Ill. 62025. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride*, in bulk, from Dubuque, Iowa, to points in Minnesota, Wisconsin, Illinois (except to points in the East St. Louis, Ill., commercial zone), and Iowa, for 180 days. Supporting shipper: The Dow Chemical Co., General Office Building, 2030 Abbott Road Center, Midland, Mich. 48640. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 127748 (Sub-No. 2 TA), filed April 17, 1969. Applicant: FOURMEN DELIVERY SERVICE, INC., 153–27 Rockaway Boulevard, Jamaica, N.Y. 11434. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or useful in the maintenance, repair, and operation of aircraft, except aircraft engines and commodities in bulk, between LaGuardia Airport and JFK Airport at New York, N.Y., on the one hand, and on the other, Newark Airport, Newark, N.J., for 180 days. Supporting shippers: Eastern Air Lines Inc., JFK International Airport, Jamaica, N.Y. 11430; American Airlines, JFK International Airport, Jamaica, N.Y. 11430. Send protests to: District Supervisor Anthony Chiusano, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, N.Y. 10007.

No. MC 128642 (Sub-No. 4 TA), filed April 17, 1969. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastbourne Avenue, Baltimore, Md. 21224. Applicant's representative: J. Meredith Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, invert sugar, and blends of sugar*, in bulk, from Baltimore, Md., to Harlan, Hazard, and Pikeville, Ky., for 180 days. Supporting shipper: W. Allen Adams, American Sugar Co., 120 Wall Street, New York, N.Y. 10005. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 133540 (Sub-No. 1 TA), filed April 17, 1969. Applicant: S. AND L. TRANSPORT, INC., Box 657, Huron, S. Dak. 57350. Applicant's representative: Daniel C. Lamke (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain, grain products, soybeans, flax seed, and bulk fertilizer*, from Kampeska, Henry, Elrod, Clark, Raymond, Doland, Frankfort, Redfield, Zell, Rockham, Miranda, Faulkton, Burkmere, Seneca, and Lebanon, S. Dak., to rail sites at Redfield, Watertown, and Gettysburg, S. Dak., on traffic having prior or subsequent movement by rail, for 180 days. Supporting shipper: Chicago and North Western Railway Co., 500 West Madison Street, Chicago, Ill. 60606, Harold E. Schwarz, Supervisor Piggyback Operations. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 133640 (Sub-No. 1 TA), filed April 17, 1969. Applicant: CORRIDOR INTERURBAN TRANSPORT CORPORATION, 36–21 193d Street, Flushing, N.Y. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast products and articles, materials and equipment* used in connection with the installation thereof in vehicles equipped with booms, from plant and storage sites of Precast, Inc., New York, N.Y., to points on the New Jersey Turnpike located in Bergen, Hudson, Essex, Union, and Middlesex Counties, N.J., *returned shipments* in opposite direction, for 180 days. Supporting shipper: Precast, Inc., 31–01 Union Street, Flushing 54, New York, N.Y. Send protests to: District Supervisor Anthony Chiusano, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

MOTOR CARRIER OF PASSENGERS

No. MC 129914 (Sub-No. 2 TA), filed April 17, 1969. Applicant: YELLOW COACH LINES, INCORPORATED, Post Office Box 287, 520 East Mary Street, Bristol, Va. 24201. Applicant's representative: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, for the account of Appalachian League, Inc., between Kingsport and Johnson City, Tenn., and between Kingsport, Tenn., and Bristol, Va.-Tenn., for 180 days. Supporting shipper: Appalachian League, Inc., Post Office Box 927, Bristol, Va. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69–5003; Filed, Apr. 25, 1969; 8:47 a.m.]

[Notice 334]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 23, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

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

No. MC–FC–71144. By order of April 17, 1969, the Motor Carrier Board approved the transfer to Southern Missouri Freight, Inc., 227 East Sunshine, Springfield, Mo. 65804, of the certificate of registration in No. MC–129207 (Sub-No. 1) issued October 9, 1967, to L. N. Tolbert and W. C. Short, a partnership, doing business as Southern Missouri Freight, Springfield, Mo., and transferred to L. N. Tolbert, doing business as Southern Missouri Freight, 227 East Sunshine, Springfield, Mo. 65804, July 23, 1968, pursuant to No. MC–FC–70649, evidencing the right to engage in transportation in interstate or foreign commerce solely within the State of Missouri, corresponding to certificate of public convenience and necessity No. T–25,449, issued July 17, 1967, by the Missouri Public Service Commission.

No. MC–FC–71152. By order of April 17, 1969, the Motor Carrier Board approved the transfer to Berwick & Sons, Inc., West Lebanon, N.H., of the operating rights in permits Nos. MC–117816 and MC–117816 (Sub-No. 1) issued November 9, 1961, and August 5, 1963, respectively, to Northeastern-Malden Barrel Co., Inc., Malden, Mass., authorizing the transportation of: Empty steel barrels, drums, pails, and containers from Jersey City, N.J., to points in New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. Frank J. Weiner, Investors Building, 536 Granite Street, Braintree, Mass. 02184, attorney for applicants.

No. MC–FC–71158. By order of April 16, 1969, the Motor Carrier Board approved the transfer to Aubrey Freight Lines, Inc.; Hoboken, N.J., of permits in Nos. MC–110884, MC–110884 (Sub-No. 4), and MC–110884 (Sub-No. 5), issued September 29, 1949, August 4, 1961, and December 4, 1962, respectively, to Francis A. Aubrey, Hoboken, N.J.; authorizing the transportation of: Meat, meat by-products and other related commodities, from Random Lake and Milwaukee, Wis., to Rochelle Park and Hillside, N.J.; and empty egg cases on the return; steel junction boxes and other related commodities, from, to, or between specified points in Connecticut, New York, New Jersey, Pennsylvania, Ohio, Illinois, and Michigan, and, cheese from Smithfield, Utah, to New York, N.Y.; and cheese from Monroe, Wis., to specified points in New York, New Jersey, and Pennsylvania. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, representing applicants.

No. MC–FC–71189. By order of April 17, 1969, the Motor Carrier Board approved the transfer to Blanton Enterprises, Inc., Milford, Va., of a portion of certificate No. MC–61620, issued December 13, 1966, to M & G Transportation Co., Inc., Gloucester, Va., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Richmond, Va., on the one hand, and, on the other, points in those portions of King William and King and Queen Counties, Va., southeast of U.S. Highway 360, except points within 1 mile of U.S. Highway 360. Jno. C. Goddin, 200 West Grace Street, Richmond, Va. 23220, attorney for applicants.

No. MC–FC–71252. By order of April 17, 1969, the Motor Carrier Board approved the transfer to Paul W. Hill, doing business as Hill Truck Line, Post Office Box 4, Onaga, Kans. 66521, of the certificate in No. MC–84574, issued October 19, 1951 to Lester Brimer, Post Office Box 262, Onaga, Kans. 66521, authorizing the transportation of general commodities and specific named commodities between named points in Kansas and Missouri.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69–5004; Filed, Apr. 25, 1969; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—APRIL

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April

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