Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 2-10; Notice 7]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Standard No. 217; Bus Window Retention and Release, Prison Buses

This notice amends Federal Motor Vehicle Safety Standard No. 217, "Bus Window Retention and Release" (49 CFR 571.217), to exempt from the standard buses manufactured for the purpose of transporting persons under physical restraint. The amendment is based on a notice of proposed rulemaking published October 1, 1973 (38 FR 27227), following petitions received from the Bureau of Prisons, United States Department of Justice.

The comments received in response to the proposal agreed that buses manufactured for the specified purpose should not be provided with the emergency exits required by Standard No. 217. The standard specifies that buses contain emergency exits operable by bus occupants, requirements which the NHTSA considers obviously incompatible with the need to transport prison inmates. The National Transportation Safety Board (NTSB) commented, however, that compensatory measures should be taken to minimize the likelihood of fire in prison buses, since the probability of safely evacuating a prison bus is less than that of any other type of bus. The NTSB urged that the exemption be limited to diesel-fueled buses, since diesel fuel is less likely to ignite than gasoline.

The NHTSA recognizes the desirability of minimizing the likelihood of fire in buses. However, at the present time it is not practical to expect that all newly manufactured prison buses be equipped with diesel engines, given the apparent immediate need for the exemption. Appropriate rulemaking action can be taken in the future if it appears necessary to mitigate from a safety standpoint the loss of emergency exits in prison buses.

In light of the above, paragraph S3 of 49 CFR 571.217 (Motor Vehicle Safety Standard No. 217), is amended to read:

§ 571.217 Standard No. 217; Bus window retention and release.

* * * * *

S3. *Application.* This standard applies to buses, except buses manufactured for the purpose of transporting persons under physical restraint.

* * * * *

Effective date: June 3, 1974. This amendment imposes no additional burdens on any person and relieves restrictions found to be unwarranted. Accordingly, good cause exists and is hereby found for an effective date less than 180 days from the day of issuance.

(Secs. 103, 112, and 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1491, 1407); delegations of authority at 49 CFR 1.51)

Issued on April 26, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-10050 Filed 5-1-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE, AND RECREATION

The following special regulation is issued and is effective during the period May 8, 1974 through December 31, 1974.

§ 28.28 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Entry into the refuge is permitted between the hours of 4 a.m. to 10 p.m. daily for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcombing, sunbathing, and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted along the entire refuge beach at the visitor's own risk. Entry into the refuge by boat is permitted only within the designated public use area at Tom's Cove Hook.

Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence along the beach southward from that point. Off-road travel by oversand vehicles is permitted only on designated routes within the public use area at Tom's Grove Hook. Pets must remain in vehicles at all times.

Fishermen who hold special overnight beach-fishing permits issued jointly by the Superintendent, Assateague Island National Seashore, and the Refuge Manager, Chincoteague National Wildlife Refuge, may remain on the refuge between the hours of 10:00 p.m. and 4:00 a.m. on the dates for which such permit is issued.

Organized youth-group and backpack camping is permitted by advance reservation only in National Park Service operated campsites located on the refuge. Permits may be obtained from the Superintendent, Assateague Island National Seashore.

Picnicking is permitted at Tom's Cove Hook in areas designated by the National Park Service.

The possession of any drugs or substances, or immediate precursors, identified in Schedules I, II, III, IV, or V of Part B of the Controlled Substances Act, 21 U.S.C. 812, or any drugs or substances added to these schedules pursuant to the terms of the Act, is prohibited on the refuge unless such drugs or substances were obtained in accordance with law. Presence in the refuge when under the influence of a controlled substance to a degree that may endanger oneself or another person or property, or may interfere with another person's enjoyment of the refuge is prohibited.

The refuge, comprising approximately 9,400 acres, is delineated on a map available from the Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 25, 1974.

[FR Doc.74-10085 Filed 5-1-74;8:45 am]

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE, ILLINOIS AND CERTAIN OTHER STATES

Miscellaneous Amendments

The following special regulations are issued and are effective May 2, 1974.

PART 28—PUBLIC ACCESS, USE AND RECREATION

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE

Public use is permitted on the Upper Mississippi River Wildlife and Fish Refuge in accordance with state laws and subject to the following special conditions:

(1) The cutting of all live trees is prohibited, except that willow may be used for trap stakes, commercial fishing gear and hunting blinds.

(2) No live fire, including hot charcoal, shall be buried and/or left unattended.

(3) The abandonment, burying or placing in the water of garbage, trash, camping and picnic debris, and all other deleterious materials is prohibited.

(4) The use on refuge lands of motorized vehicles of any type is prohibited except on designated public roads and routes of travel.

(5) All state laws on use, possession, transportation and sale of alcoholic beverages which are applicable to the geographic area concerned are adopted and made a part hereof.

(6) The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marijuana, hashish, depressants, stimulants or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All state laws on controlled substances applicable to the geographic area concerned are adopted and made a part hereof.

(7) Camping, defined as the use of tent camps; bedrolls; and all types of floating craft, motorized vehicles, trailers and other shelters for overnight stays for the purpose of sleeping, is permitted on the Upper Mississippi River Wild Life and Fish Refuge subject to the following restrictions:

(a) The period of camping by an individual or group shall not exceed fourteen (14) consecutive days at any one site or within 300 feet of such site.

(b) The leaving of tents, camping equipment or floating craft at an unoccupied campsite for more than 24 hours is prohibited. Such gear will be considered as abandoned and is subject to impoundment.

(c) The erection of tables, fireplaces, latrines and other structures and facilities related to camping is prohibited unless all vestiges of same are removed when the camper departs from the site.

(d) Camping is prohibited on developed access and parking areas and on all other areas posted against camping. Camping on the refuge while engaged in fur animal trapping is prohibited. Camping on land on the refuge while engaged in hunting is prohibited except on sites readily visible from the main commercial navigation channel of the Mississippi River or on designated developed camp sites. Camping while engaged in hunting is prohibited in all areas closed to such hunting.

(8) The placement on the refuge of boathouses, boat docks, boat slips, storage boxes or sheds, stairways, wells, septic systems, sewer systems of any type, and all other kinds and types of construction is prohibited without written authorization of the refuge manager or his authorized representative. All new structures, including boathouses, houseboats, docks, piers and floats authorized by permit to be moored, anchored, or secured along the shoreline and on the waters of the Mississippi River within the Upper Mississippi River Wild Life and Fish Refuge must use flotation methods and devices of a type constructed of polyurethane, high-impact polyethylene fiberglass material, wood timbers, or other inert materials to provide flotation. The use of any iron or steel container not fabricatde originally for flotation purposes, including barrels, steel container not fabricated originally constructed for the purpose of containing fluids, powders or similar products is prohibited for new structures or for replacement of flotation devices in existing structures unless filled with polyurethane.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in 50 CFR Part 28 and are effective until June 30, 1975.

PART 32—HUNTING

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Hunting of migratory game birds is not permitted on the areas designated by signs as "closed" to hunting. The "open" areas comprising 153,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions:

(1) The hunting of migratory game birds shall be in accordance with all applicable State and Federal regulations and seasons which are adopted herein and made a part of this regulation.

(2) No person shall hunt migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's migratory game bird hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

§ 32.22 Special regulations, upland game, for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of upland game birds, upland game animals, and raccoon, groundhogs, foxes and crows on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of these species is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting and the discharge of guns is prohibited thereon. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following special conditions:

(1) Hunting on designated "open" areas concurrent with applicable state seasons is permitted, but only during the period from the first day of the earliest fall state GAME bird or GAME animal season applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of upland game birds, upland game animals, and raccoon, groundhogs, fox and crows shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt upland game birds or animals on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's small game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

(5) Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wild Life and Fish Refuge during the period from March 1 until the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

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

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of deer on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed to all hunting at all times. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional

Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions.

(1) Bow and gun deer hunting on designated "open" areas is permitted concurrent with applicable state seasons.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of white-tailed deer shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt deer on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's big game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

PART 33—SPORT FISHING

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish and clams on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling ,Twin Cities, Minnesota 55111. All fishing is subject to the following conditions:

(1) Unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish and clams shall be taken in accordance with all applicable state regulations and seasons which are adopted herein and made a part hereof.

(2) All sport and commercial fishing and all travel by boat or any other means across, through or on the Spring Lake Closed Area of the Upper Mississippi River Wild Life and Fish Refuge in Carroll Co., Illinois is prohibited from October 1 through December 20.

(3) All persons, including their helpers, exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager authorizing such commercial fishing and must comply with all conditions as prescribed by the Refuge Manager which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective until June 30, 1975.

GALEN L. BUTERBAUGH,
Acting Regional Director.

Dated: April 25, 1974.

[FR Doc.74-10032 Filed 5-1-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 155—PHASE IV PRICE PROCEDURAL REGULATIONS

Exceptions and Compliance Procedures

On March 27, 1974, the Cost of Living Council amended its procedural regulations at § 155.41 to provide that when a person has violated a regulation, and where that violation is the subject of an investigation, a notice of probable violation or a remedial order, that person cannot qualify to obtain an exception which would nullify the violation in whole or in part. The purpose of this amendment was to expedite the processing of both compliance and exception cases and to close a loophole in the regulations which tended to encourage noncompliance and which was unfair to firms that adhered to the regulations while applying for exceptions.

It has since come to the attention of the Council that this amendment may cause a hardship to certain institutional providers of health care (acute care hospitals and long term care institutions) who have no way of knowing whether they will be in violation of the regulations until well after the close of the fiscal year in question. The situation arises because of the nature of third party payment in the health industry, most of which is done on a cost reimbursement basis. Third party payors, such as Medicare, Medicaid and many Blue Cross plans, make interim payments to an institution throughout the year based on the institution's anticipated costs for that year. After the close of the fiscal year, there is a full audit done of the institution's costs, and the final amount of reimbursement is determined on the basis of that audit. The audit often is not completed until years after the close of the fiscal year. It is not uncommon for the audit to reveal that the interim payments were too low, and thus the institution is entitled to a large lump sum payment. Pursuant to Price Commission Ruling 72-262 and Cost of Living Council Ruling 74-1, this final payment from the third party reimburser is normally chargeable to operating revenues in the year in which payment is received. However, if the amount of payment is so significant as to require, under generally accepted accounting principles, a restatement of the financial figures for the year in which these revenues accrued, then the institution is required to restate its prior year figures to account for this final payment in a later year.

In this manner, it is possible for an institution that finished its fiscal year with revenues within the 6 percent limitation on increases in aggregate annual revenues due to price increases to suddenly exceed the limitation and thus be in violation of 6 CFR 300.18. Because the institution had no way of knowing that this would happen until after the end of its fiscal year, it had no reason to apply for an exception prior to the time when it became in violation; and under the recent amendment to § 155.41, it is prohibited from applying for an exception when it discovers that it needs one in order to avoid non-compliance with the regulations. Further, in most cases, an institution in this situation could not be granted an exception prior to the end of its fiscal year, because at that point it would not have the cost and revenue data necessary to justify the granting of relief; the Council does not grant exceptions based on hypothetical harm in the future.

Therefore, in order not to penalize institutions who, because of the existence of third party retroactive cost reimbursement, do not realize that they may need exceptions relief until they are already in violation, the Council is amending § 155.41. The amendment provides that the prohibition contained in that section against applying for an exception to a regulation when one is already in violation of that regulation shall not apply to an institution who is in violation of either Subpart O or Subpart R of this Part solely because of the receipt of payments based on retroactive adjustments in final settlement with third party payors.

Because the purpose of this amendment is to provide immediate guidance with respect to decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, 6 CFR Part 155 is amended as set forth herein, effective April 30, 1974.

Issued in Washington, D.C., on April 30, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

The introductory paragraph of § 155.41 is amended to read as follows:

§ 155.41 Purpose and scope.

Exceptions from the provisions of Part 150 of this title may be granted for the purpose of preventing or correcting a serious hardship or gross inequity. However, except as provided below, a person who has violated the regulation with respect to which an exception is sought and who in connection with that matter is under investigation or has received a notice of probable violation or remedial order shall not qualify to obtain an exception which would nullify that violation in whole or in part. This limitation does not apply to an institutional provider of health care subject to Subpart O of Part 150 or to an acute care hospital or long term care institution subject to Subpart R of Part 150 of this chapter if that person's violation was caused solely by the receipt of payments based on retroactive adjustments in final settlement with a third party payor.

* * * * *

[FR Doc.74-10184 Filed 4-30-74;2:34 pm]

Title 7—Agriculture

Subtitle A—Office of the Secretary of Agriculture

PART 1—ADMINISTRATIVE REGULATIONS

Subpoenas; Issuance and Service Pursuant to Statutes Administered by the Secretary of Agriculture

Section 1.29, Title 7, Code of Federal Regulations, is revised to clarify the authority of various Department officials to issue subpoenas relating to investigations.

Section 1.29 is amended to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* When the Secretary is authorized by statute to issue a subpoena, the attendance of a witness and the production of documentary evidence relating to an investigation may be required by subpoena at any designated place of hearing. A designated place of hearing may include the witness' place of business. A subpoena may be issued by either the Secretary of Agriculture, or any Department official authorized pursuant to Part 2 of this title to administer the program to which the statute relates, upon a showing of the reasonableness of the grounds, necessity, and scope thereof. In addition, the Director of the Office of Investigation may issue a subpoena with respect to any investigation involving the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or Poultry Products Inspection Act (21 U.S.C. 451 et seq.), upon a showing of the reasonableness of the grounds, necessity, and scope thereof.

(b) *Service of subpoena.* (1) A subpoena issued pursuant to this section may be served by:

(i) A U.S. Marshal or Deputy Marshal,

(ii) Any other person who is not less than 18 years of age, or

(iii) Certified or registered mailing of a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence.

(2) Proof of service made be made by the return of service on the subpoena by the U.S. Marshal or Deputy Marshal; or, if served by an individual other than a U.S. Marshal or Deputy Marshal, by an affidavit or certification of such person stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by certified or registered mail, by the signed Postal Service receipt.

(3) In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; and the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the subpoena. (5 U.S.C. 301).

Effective date. This revision shall become effective on May 2, 1974.

Done at Washington, D.C., this 29th day of April 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-10040 Filed 5-1-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 323]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 3-9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.623 Navel Orange Regulation 323.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is weakening somewhat. Pricese f.o.b. averaged $3.71 a carton on a reported sales volume of 958 carlots last week, compared with an average f.o.b. price of $3.78 per carton and sales of 1,148 carlots a week earlier. Track and rolling supplies at 480 cars were down 56 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) 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 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 circumstsances, 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 Navel oranges 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, 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 Navel oranges; 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 30, 1974.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1: 750,000 cartons;

(ii) District 2: Unlimited movement;

(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 said amended marketing agreement and order.

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

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10307 Filed 5–1–74;11:34 am]

[Valencia Orange Reg. 463]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 3–9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.763 Valencia Orange Regulation 463.

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

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to show improvement. Prices f.o.b. averaged $3.45 per carton on a reported sales volume of 259 carlots last week, compared with an average f.o.b. price of $3.14 per carton and sales of 171 carlots a week earlier. Track and rolling supplies at 219 cars were up 94 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking 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 Valencia oranges 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 Valencia oranges; 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 regulation 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 30, 1974.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1:225,000 cartons;

(ii) District 2:195,000 cartons;

(iii) District 3:155,000 cartons."

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" 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: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10038 Filed 5–1–74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO–295–A26, Milk Order No. 79]

PART 1079—MILK IN THE DES MOINES, IOWA, MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Des Moines, Iowa, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome

milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1974. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 22, 1974, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued March 27, 1974. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1974, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Des Moines, Iowa, marketing area shall be in conformtiy to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1079.7 is revised to read as follows:

§ 1079.7 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, and which milk is:

(1) Received at a pool plant;

(2) Diverted as producer milk pursuant to § 1079.14; or

(3) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c).

(b) "Producer" shall not include a producer-handler as defined in any order (including this part) issued pursuant to the Act.

2. Section 1079.8 is revised to read as follows:

§ 1079.8 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

3. Section 1079.9 is revised to read as follows:

§ 1079.9 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to a duly constituted regulatory agency for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1079.10.

4. Section 1079.10 is revised to read as follows:

§ 1079.10 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant:

(1) From which the volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 35 percent of the combined Grade A milk received in bulk form at such plant or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk; and not less than 15 percent of such receipts or an average of not less than 7000 pounds per day whichever is less, is so disposed of to such outlets in the marketing area; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a)(1) of this section.

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent (30 percent for each of the months of April through August) of the Grade A milk received at such plant from dairy farmers and handlers described in § 1079.12(c), and diverted therefrom by the plant operator or a cooperative association as producer milk pursuant to § 1079.14: *Provided,* That if such shipments are not less than 50 percent during the immediately preceding period of September through November, such plant shall be a pool plant during each of the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March through June to be designated a nonpool plant for such month and for each subsequent month through June of the same year; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (b)(1) of this section with respect to shipment to plants qualified pursuant to paragraph (a)(1) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Plants subject to other Federal orders pursuant to § 1079.61; or

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately, and is not approved by any duly constituted regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

5. Section 1079.12 is revised to read as follows:

§ 1079.12 Handler.

"Handler" means:

(a) Any person as the operator of one or more pool plants;

(b) Any cooperative association with respect to milk of producers it diverts from a pool plant pursuant to § 1079.14;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant operated by another person, unless both the cooperative association and the operator of the pool plant notify the market administrator that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the qualified handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1079.61; and

(g) Any person in his capacity as the operator of an unregulated supply plant.

6. Section 1079.14 is revised to read as follows:

§ 1079.14 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer;

(b) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c); or

(c) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section unless during the month at least one delivery is made to a pool plant;

(3) A cooperative association may divert the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(4) of this section). The total quantity of milk so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk for which the cooperative is the handler pursuant to § 1079.12(c) and producer milk which the association causes to be delivered to pool plants, or diverted therefrom during the month;

(4) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(3) of this section). The total quantity so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month;

(5) Any milk diverted in excess of the limits prescribed pursuant to paragraph (c) (3) and (4) of this section shall not be producer milk and, if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk; and

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted by a cooperative association from the pool plant of another handler shall not be producer milk.

7. In § 1079.16, paragraph (a) is revised to read as follows:

§ 1079.16 Other source milk.

* * * * *

(a) Receipts of fluid milk products from any source other than producers, handlers described in § 1079.12(c), or pool plants; and

* * * * *

8. Section 1079.30 is revised to read as follows:

§ 1079.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantity of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1079.12(c);

(3) Receipts of fluid milk products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products; and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1079.12 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to a handler described in § 1079.12(b), the plant from which such milk is diverted.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1079.31 [Amended]

9. In § 1079.31, the words "for each of his plants" are deleted from lines 2 and 3 of paragraph (b)(1).

10. Section 1079.41 is revised to read as follows:

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As otherwise provided in paragraph (b) of this section; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form;

(3) In fluid milk products that are disposed of by a handler for animal feed;

(4) In fluid milk products that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products destroyed or lost under extraordinary circumstances;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included in Class I milk pursuant to paragraph (a)(1)(i) of this section; and

(7) In shrinkage assigned pursuant to § 1079.42(a) to receipts specified in § 1079.42(a)(2) and in shrinkage specified in § 1079.42(b) and (c).

11. Section 1079.42 is revised to read as follows:

§ 1079.42 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1079.12(c);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products (except cream) received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk (except cream transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.12(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

12. In Section 1079.44 the preamble of paragraph (a) is revised as follows:

§ 1079.44 Transfers.

* * * * *

(a) As Class I milk if transferred from a pool plant or by a cooperative association as a handler pursuant to § 1079.12 (c) to a pool plant, unless Class II utilization is requested by the transferee and transferor handlers, subject to the following conditions:

* * * * *

13. Section 1079.45 is revised as follows:

§ 1079.45 Computation of the skim milk and butterfat in each class.

(a) Each month the market administrator shall correct for mathematical and other obvious errors, the reports filed pursuant to § 1079.30 and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1079.12 (b) and (c) and was not received at a pool plant.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

14. In § 1079.46 the introductory portion and paragraph (a)(9) are revised as follows:

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1079.12 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1079.12(c) at each pool plant for each handler as follows:

(a) * * *

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) according to the classification assigned pursuant to § 1079.44(a); and

* * * * *

15. Section 1079.52 is revised as follows:

§ 1079.52 Plant location adjustments for handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I milk without movement in bulk form to a pool distributing plant and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Multiply the pounds of skim milk remaining in Class I at the transfereeplant after the computations pursuant to § 1079.46(a)(8) by 105 percent;

(2) Subtract the pounds of skim milk in receipts of milk at the transfereeplant from producers and handlers described in § 1079.12(c);

(3) Assign any remaining pounds of skim milk in Class I at the transfereeplant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(4) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the pounds of skim milk assigned to each transferor-plant pursuant to paragraph (b)(3) of this section by the applicable location adjustment rate for each such plant, and add the resulting amounts;

(5) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(4) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1079.44(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(6) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (5) of this section.

16. In § 1079.70 the preamble and paragraph (a) are revised as follows:

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant, and of each cooperative association handler pursuant to § 1079.12 (b) and (c) with respect to milk which was not received at a pool plant, shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk received from a cooperative association as a handler pursuant to § 1079.12(c) and allocated pursuant to § 1079.46(a)(9) and the corresponding step of § 1079.46 (b) and the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

* * * * *

17. In § 1079.71, paragraph (d) is revised as follows:

§ 1079.71 Computation of aggregate value used to determine uniform price.

* * * * *

(d) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund.

18. In § 1079.80 the introductory portions of paragraphs (a) and (b) are revised and a new paragraph (d) is added to read as follows:

§ 1079.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which pay-

ment is not made to a cooperative association pursuant to paragraphs (b) and (d) of this section as follows: * * *

(b) Each handler shall make payment to a cooperative association for producer milk it causes to be delivered to such handler, which association the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows * * *

* * * * *

(d) Each handler in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1079.12(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price adjusted by applicable butterfat and location adjustments, and less the payment made pursuant to paragraph (d) (1) of this section.

19. In § 1079.84 paragraph (b)(1) is revised as follows:

§ 1079.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1079.12(c) at the applicable uniform price pursuant to § 1079.72 adjusted pursuant to §§ 1079.81 and 1079.82, less in the case of a cooperative association on milk for which it is the handler pursuant to § 1079.12(c), the amount due from other handlers pursuant to § 1079.80(d); and

* * * * *

20. Section 1079.88 is revised as follows:

§ 1079.88 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1079.12(c)) shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk and milk received from a cooperative association pursuant to § 1079.12(c);

(b) Other source milk allocated to Class I pursuant to § 1079.46(a)(3) and (7) and the corresponding steps of § 1079.46(b); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

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

Effective date: May 1, 1974.

Signed at Washington, D.C., on April 26, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-10041 Filed 5-1-74;8:45 am]

Proposed Rules

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

WARRANTS OF ARREST AND ORDERS TO SHOW CAUSE

Delegation of Authority

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of 8 CFR 242.1, 242.2, and 242.7, pertaining to the authority of Service officers to issue warrants of arrest and to issue and cancel orders to show cause.

The following amendments are proposed in Part 242: An amendment to § 242.1(a) to empower assistant district directors for investigations to issue orders to show cause; an amendment to § 242.7 to vest assistant district directors for investigations with authority to cancel orders to show cause prior to commencement of the deportation hearing for a reason set forth in § 242.7; and an amendment to § 242.2(a) to vest officers in charge empowered to issue orders to show cause under § 242.1(a) and assistant district directors for investigations with authority to issue warrants of arrest. Corollary amendments are proposed in § 242.2(a), (b), (c), and (d).

This notice is identical with the rule changes in Part 242 published on April 5, 1974 (39 FR 12334), which the Service regards as valid and exempt from the necessity of compliance with 5 U.S.C. 553 because it concerns solely an internal reallocation of delegated authority. However, since one objection has been received, and out of an abundance of caution, the Service will postpone the effective date of the changes in Part 242 published on April 5, 1974 until the procedures prescribed by 5 U.S.C. 553 have been followed.

In accordance with 5 U.S.C. 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100–C, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received by May 31, 1974, will be considered.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. In § 242.1(a), the existing third sentence is amended. As amended, § 242.1(a) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, acting district directors, deputy district directors, assistant district directors for investigations, and officers in charge at Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R. I.; San Diego, Calif.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

* * * * *

2. Section 242.2 is amended in the following respects: in paragraph (a), the existing second, third, seventh, eighth, and ninth sentences are amended; in paragraph (b), the ninth and tenth sentences are amended; in paragraph (c), the first sentence is amended; and paragraph (d) is amended. As amended, §§ 242.2 (a), (b), (c), and (d) read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. However, such warrant may be issued by no one other than a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and then only whenever, in his discretion, it appears that the arrest of the respondent is necessary or desirable. If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation. When a warrant of arrest is served under this part, the respondent shall have explained to him the contents of the order to show cause, the reason for his arrest and his right to be represented by counsel of his own choice at no expense to the Government. He shall be advised that any statement he makes may be used against him. He shall also be informed whether he is to be continued in custody or, if release from custody has been authorized, of the amount and conditions of the bond or the conditions under which he may be released. A respondent on whom a warrant of arrest has been served may apply to the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), for release or for amelioration of the conditions under which he may be released. The district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), when serving the warrant of arrest and when determining any application pertaining thereto, shall furnish the respondent with a notice of decision, which may be on Form I–286, indicating whether custody will be continued or terminated, specifying the conditions, if any, under which release is permitted, and advising the respondent appropriately whether he may apply to a special inquiry officer pursuant to paragraph (b) of this section for release or modification of the conditions of release or whether he may appeal to the Board. A direct appeal to the Board from a determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), shall not be allowed except as authorized by paragraph (b) of this section.

(b) *Authority of special inquiry officers; appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he may be released, a special inquiry officer may exercise the authority contained in section 242 of the Act to continue or detain a respondent in, or release him from, custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority may be made to any available special inquiry officer who is stationed at the Service office which has administrative jurisdiction over the proceeding under the order to show cause or who conducts hearings there. If no such special inquiry officer is available, application may be made to any available special inquiry officer stationed in the region wherein said Service office is located. The determination of the special inquiry officer in respect to custody status or bond shall be entered on Form I–342 at the time such

determination is made and shall be accompanied by a memorandum by the special inquiry officer as to the reasons for his determination. The special inquiry officer shall promptly notify the respondent and the Service of such determination. Consideration under this paragraph by the special inquiry officer of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding or of the record thereof. The determination of the special inquiry officer as to custody status or bond may be based upon any information which is available to the special inquiry officer, or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. After a deportation order becomes administratively final, the respondent may appeal directly to the Board from a determination by the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by a special inquiry officer or from an appealable determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1 (a) by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal, the district director shall immediately transmit to the Board all records and information pertaining to the determination from which the appeal has been taken. The filing of such an appeal shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceeding or deportation.

(c) *Revocation.* When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and cancelled. The provisions of paragraph (b) of this section shall govern availability to the respondent of recourse to other administrative authority for release from custody.

(d) *Supervision.* Until an alien against whom a final order of deportation has been outstanding for more than six months is deported, he shall be subject to supervision by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and required to comply with the provisions of section 242(d) of the Act relating to his availability for deportation.

* * * * *

3. In § 242.7, the first sentence is amended. As amended, § 242.7 reads as follows:

§ 242.7 Cancellation of proceedings.

If an order to show cause has been issued, any district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a) may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun; or after actual commencement of hearing such officer may move that the case be dismissed for any of the foregoing reasons or that the case be remanded to his jurisdiction on the ground that it has come to his attention that there are involved the foreign relations of the United States which require further consideration. Cancellation of an order to show cause or termination of proceedings or remand of a case pursuant to the foregoing shall be without prejudice to the alien or the Service. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this section, any outstanding warrant of arrest shall also be cancelled. A special inquiry officer may, in his discretion, terminate deportation proceedings to permit respondent to proceed to a final hearing on a pending application or petition for naturalization when the respondent has established prima facie eligibility for naturalization and the case involves exceptionally appealing or humanitarian factors; in every other case, the deportation hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any stage of the proceedings.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: April 29, 1974.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.74-10062 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

LIMES GROWN IN FLORIDA

Expenses and Rate of Assessment for 1974-75 Fiscal Year; Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $38,500, a rate of assessment of $0.05 per bushel of limes, and the carryover as a reserve of unexpended funds to support the activities of the Lime Administrative Committee for the 1974-75 fiscal year under Marketing Order No. 911.

Consideration is being given to the following proposals submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, during the period from April 1, 1974, through March 31, 1975, will amount to $38,500;

(2) That there be fixed, at $0.05 per bushel of limes, the rate of assessment payable by each handler in accordance with § 911.41 of the aforesaid marketing agreement and order; and

(3) Unexpended assessment funds in the amount of approximately $7,655, which are in excess of expenses incurred during the fiscal year ended March 31, 1974, shall be carried over as a reserve in accordance with §§ 911.42 and 911.204 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than May 21, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 29, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10107 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Parts 620, 621, 622, 623, 624]

WATER RESOURCES PROGRAM

Notice of Proposed Rulemaking

The Soil Conservation Service (SCS) plans to codify its policy and proce-