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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1951 CCC Cottonseed Bulletin 3]

PART 643—OILSEEDS

SUBPART—1951 COTTONSEED PRODUCTS PURCHASE PROGRAM

Sec.

AUTHORITY: §§ 643.575 to 643.594 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup., 714b. Interpret or apply secs. 4, 5, 62 Stat. 1070, as amended, 1072, secs. 301, 401, 63 Stat. 1053, 1054; 15 U. S. C. Sup., 714b, 714c, 7 U. S. C. Sup., 1447, 1421.

§ 643.575 *General statement.* As a part of the 1951 Cottonseed Price Support Program formulated by Commodity Credit Corporation (referred to in this subpart as CCC) and the Production and Marketing Administration (referred to in this subpart as PMA), CCC hereby offers to purchase certain cottonseed products produced by any crusher engaged in the crushing of cottonseed (referred to in this subpart as "crusher") on the terms and conditions stated in this subpart. The program will be carried out by PMA under the general supervision and direction of the President, CCC.

§ 643.576 *Administration.* Except as specifically provided otherwise, operations under this subpart will be administered by the PMA commodity offices listed in § 643.594. All contract documents on behalf of CCC will be executed by CCC contracting officers in the appropriate PMA commodity offices. Officials of the PMA commodity offices, PMA State offices, and PMA county offices, do not have authority to waive or modify any provisions of this subpart.

§ 643.577 *Availability* — (a) *Area.* This program will be available in all areas where cottonseed crushing mills are located.

(b) *Source.* (1) Purchases of cottonseed products, in accordance with the terms of this subpart, will be made by CCC from the crushers who notify the appropriate PMA commodity offices of acceptance of the offer contained in this subpart substantially in the following forms:

> The undersigned crusher hereby accepts CCC's offer to cottonseed crushers, 1951 CCC Cottonseed Bulletin No. 3, for the mills listed below. The crusher understands that by acceptance of this offer he becomes obligated to pay for all 1951 crop cottonseed purchased from participating ginners and eligible producers not less than $65.50 per ton for basis grade (100) cottonseed f. o. b. gin point, with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100). The following mills are covered by this acceptance: * * *

(2) If the crusher operates more than one cottonseed crushing mill, he may file one acceptance for those mills for which he desires to accept this offer and shall specify in the acceptance the names and locations of the mills covered by the acceptance; but each such mill shall be treated as a separate unit for the purpose of determining the rights and obligations of the crusher with respect to cottonseed purchased for processing at, and cottonseed products produced at, each such mill. CCC will acknowledge in writing the receipt of each acceptance.

(3) Upon approval by the President of CCC, the PMA commodity office may permit a crusher, upon his request, to tender and deliver products in a form not provided for in this subpart if such crusher operates a mill in which products can be produced only in such form.

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FEDERAL REGISTER

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

(c) *Time.* The acceptance provided for in paragraph (b) of this section must be forwarded by telegram or registered mail to the Director of the appropriate PMA commodity office as shown in § 643.594 on or before September 15, 1951 or such later date as may be approved by such Director. Only cottonseed purchased prior to July 1, 1952, or such later date as may be specified by CCC, is covered by this subpart. All cottonseed products tendered to CCC must be for delivery not later than September 15, 1952, or such later date as may be specified by CCC.

§ 643.578 *Purchases of cottonseed by crusher*—(a) *Cottonseed covered.* Only 1951 crop cottonseed purchased by the crusher from ginners participating in the 1951 cottonseed purchase program (1951 CCC Cottonseed Bulletin 2), or from producers eligible under such program is covered by this subpart. Except as may be otherwise provided by the President of CCC in accordance with paragraph (b) of this section the crusher must pay for all such cottonseed purchased under this subpart not less than $65.50 per ton basis grade (100), f. o. b. gin, with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100). Cottonseed which is "below grade" or "off quality" as defined in the rules of The National Cottonseed Products Association may be purchased at a price mutually agreeable to the crusher and the ginner or the producer selling the cottonseed. The names and addresses of participating ginners and beginning dates of their participation will be furnished to the crusher by the appropriate PMA commodity office. The crusher may obtain and rely upon information in writing as to additions to the list of participating ginners from either the county or State PMA office or from the PMA commodity office. If a participating ginner should become ineligible to deliver cottonseed, written notice to the crusher of such ineligibility will be given only by the appropriate PMA commodity office.

(b) *Purchases on official grades.* Unless otherwise approved by the President of CCC, all cottonseed which is purchased by the crusher under this subpart shall be graded in accordance with United States Official Standards for Grades of Cottonseed. Costs of sampling and chemical analysis of cottonseed shall be for the account of the crusher.

(c) *Weight.* Purchases of cottonseed under this announcement shall be based upon weights at the crusher's mill after deduction of the weight of all foreign material in excess of 1 percent.

§ 643.579 *Purchase of cottonseed products by CCC*—(a) *Option to tender products.* The crusher shall have an option to sell and CCC shall purchase if offered, for each ton of cottonseed purchased by the crusher under this subpart, the quantities of crude cottonseed oil, 41 percent protein cake or meal and linters specified below for the applicable area.

	Oil (pounds)	41 percent protein cake or meal (pounds)	Linters (pounds)
Southeastern	311	839	184
Valley area	322	875	179
Southwestern area	301	933	182
Arizona	308	853	199
California	339	822	195

If the crusher elects to sell any products to CCC, the quantities of oil, cake or meal and linters shall be tendered in the proportions specified above for the area in which the mill is located except as provided below. CCC may reject LCL shipments except for a clean-up car on the last delivery of each product, and on which the crusher protects the minimum freight rate. Upon prior approval from

PMA commodity office, shipments may be made by truck. Any crusher who produces substantially less linters per ton than the applicable quantity specified above shall not be required to deliver in excess of his actual average outturn of linters per ton of cottonseed, as determined by the appropriate PMA commodity office.

Purchases of linters, oil and cake, or meal shall be in accordance with §§ 643.580 through 643.583 and applicable rules of the National Cottonseed Products Association in effect on the date of tender of such products except to the extent that such rules are inconsistent with this subpart and except as to periods specified in such rules for presentation of claims and the rules on arbitration. The crusher shall notify CCC through the appropriate PMA commodity office not later than the 10th day of December 1951, of the quantity of cottonseed purchased hereunder prior to December 1, 1951, and the respective quantities of products tendered to CCC, indicating delivery dates. With respect to cottonseed purchased on and after December 1, 1951, the crusher shall notify CCC not later than the 10th day of January 1952, and the 10th day of each succeeding month, of the quantity of cottonseed purchased under this subpart during the preceding month and the respective quantities of the products tendered to CCC, indicating delivery dates. CCC shall have no obligation to purchase any products which are not tendered within the applicable time specified in this paragraph. CCC shall confirm all tenders of products under this paragraph which comply with the provisions of this subpart. Each tender by the crusher and confirmation by CCC shall constitute separate contracts for the sale of such products in accordance with the terms of this subpart and the applicable rules of the National Cottonseed Products Association. CCC shall be obligated to purchase only the excess of the crusher's production of products milled from cottonseed purchased under this subpart, over the quantities of products required to make deliveries under commercial sales contracts whether or not such contracts were actually consummated by delivery.

(b) *Conditional tenders.* In order to supply local demand for cottonseed cake or meal, the crusher may condition any tender of cottonseed products under paragraph (a) of this section upon an immediate repurchase by the crusher from CCC of a specified quantity of cake or meal included in such tender, at the current market price of cake or meal as determined by the PMA commodity office to which the tender is made which shall not exceed any applicable ceiling price determined under Federal law. Such conditional tender shall be accepted or rejected by CCC within 24 hours after receipt of the tender in the PMA commodity office.

(c) *Brokerage.* The crusher may tender products to CCC through brokers, and any brokerage fee shall be for the account of the crusher.

(d) *Areas.* (1) The Southeastern area shall consist of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama.

(2) The Valley area shall consist of the States of Arkansas, Illinois, Kentucky, Louisiana, Missouri, Mississippi, Tennessee, and Bowie county, Texas.

(3) The Southwestern area shall consist of the States of New Mexico, Oklahoma and Texas, except Bowie county.

§ 643.580 *Linter purchases.* (a) Prices f. o. b. carrier at shipping point.

(1) The price for mill run or second cut chemical linters, shall be 8 cents per pound gross weight basis 73 percent cellulose yield. Premiums and discounts of 0.11 cents per pound shall be made for each variation of one percent, fractions in proportion, of cellulose yield from 73 percent.

(2) The price for first-cut and mill run linters sold on U. S. Grade basis shall be as follows:

	Grade	Cents per pound gross weight
U. S. No. 1	High	14.8
	Middle	14.3
	Low	13.8
U. S. No. 2	High	13.3
	Middle	12.8
	Low	12.3
U. S. No. 3	High	11.8
	Middle	11.3
	Low	10.8
U. S. No. 4	High	10.3
	Middle	9.8
	Low	9.3
U. S. No. 5	High	8.8
	Middle	8.3
	Low	8.0
U. S. No. 6		7.8
U. S. No. 7		7.7

(3) The crusher must elect on or before the date of his first tender of products as to whether he will deliver all mill run linters on the basis of cellulose or U. S. Grade.

(4) A discount of $2.00 per bale shall be made by CCC for bales heavier than 675 pounds, gross weight.

(b) *Bagging.* Bales shall be well covered with close woven bagging. Sisal or paper covering will not be acceptable. Bales shall be baled with new or once-used three-fourths pound linter or heavier covering and shall be bound with a minimum of six new or reworked sound standard arrow type buckle and ties. Total tare shall not exceed 5 percent.

(c) *Quality.* U. S. grades or cellulose yield shall be determined on the basis of samples drawn by samplers licensed by the U. S. Department of Agriculture, or other samplers approved by CCC. All linters shall be clean, undamaged, free of excessive hull pepper, shale, and trash and shall not contain motes, sweepings or any other foreign material and, if purchased on a cellulose basis, shall be suitable for chemical use as determined by CCC. Such linters, when loaded, shall be in good condition, dry and free from weather or other damage. Chemical linters shall be sampled and analyzed in accordance with the rules of the National Cottonseed Products Association in effect on the date of tender. The grade of linters sold on a U. S. Grade basis will be determined by a U. S. licensed cotton linters classifier or the Board of Cotton Linters Examiners of the U. S. Department of Agriculture. The cost of determining the cellulose analyses and the U. S. Grade shall be for the account of CCC.

(d) *Weight.* The official destination weight, or other weight acceptable to CCC, at first receiving warehouse in the United States shall govern. CCC shall notify the crusher by telegram if the destination weight is more than one-half of one percent below the weight as billed by the crusher, and the crusher shall have the option, if he notifies CCC by telegram within 24 hours of the receipt of such notice, to have the shipment reweighed by an official weighmaster at the crusher's expense.

(e) *Loading.* All cars shall be loaded to protect minimum freight rate. All cars shall be carefully swept and cleaned before loading. All linters shall be in such condition that common carriers will accept them for transportation to destination without any charges or expense other than freight. Cars shall be furnished by crusher.

(f) *Delivery.* Within 15 days after the delivery date specified by the crusher in the notice of tender, CCC shall issue delivery instructions for immediate shipment.

(g) *Payment.* The crusher may present to CCC for provisional payment a sight draft drawn against CCC with an invoice and approved shipping documents attached for the value of the products based on the origin weights and the base price in the case of linters sold on a cellulose basis or, in the case of linters sold on a U. S. Grade basis, the specific grade price if the linters were graded before shipment or 8.5 cents per pound if the linters were not graded before shipment. Final settlement for such linters will be made upon the basis of the U. S. Grade or cellulose yield analysis and the certified destination out-turn weight of the linters.

§ 643.581 *Crude cottonseed oil purchases*—(a) *Base price.* The base price per pound of prime crude cottonseed oil basis f. o. b. buyer's tank cars at crusher's mill shall be the price specified below for the applicable area:

	Cents
Southeastern	15.625
Valley	15.5
Southwestern	15.25
Arizona	15.5
California	15.5

(b) *Grade.* The grade shall be basis prime crude cottonseed oil as defined in the rules of the National Cottonseed Products Association.

(c) *Quality settlement basis.* The base price shall be adjusted for variance in quality in accordance with the rules of the National Cottonseed Products Association.

(d) *Delivery.* Within 15 days after the delivery date specified by the crusher in the notice of tender, CCC shall issue delivery instructions for immediate shipment.

(e) *Payment.* The crusher may present to CCC for provisional payment, a sight draft drawn against CCC with an invoice and approved shipping documents attached for the value of the oil based on the origin weights and base price. Final settlement for such oil will be made upon the basis of the official

analysis and the certified destination outturn weight of the oil.

§ 643.582 *Cottonseed cake or meal purchases*—(a) *Base price.* The purchase price per pound for 41 percent minimum protein content basis hydraulic or expeller bulk meal or sized cake, f. o. b. seller's cars at crushing plant, shall be the price specified below for the applicable area:

	Cents
Southeastern	2.8
Valley	2.7
Southwestern	2.7
Arizona	2.65
California	2.65

(1) At request of CCC, crushers having pelleting equipment shall deliver pellets at a premium of $2.50 per ton over the applicable price for meal.

(2) Solvent extracted meal shall be discounted at $1.50 per ton from the base price.

(3) Slab cake, if delivered by mutual agreement between crusher and CCC, shall be delivered at a discount of $2.00 per ton from the base price. Mills making only slab cake will not be required to deliver in any other form.

(4) If the crusher, in accordance with local trade practice, as determined by the appropriate PMA commodity office, tenders on the basis of protein content of less than 41 percent, a deduction of $1.00 per ton per unit of protein below 41 percent will be made, from the base price.

(5) Meal will be delivered in bulk or in new or used bags in accordance with instructions from the appropriate PMA commodity office. The price to be paid the crusher for bags, if used, will be the current market price as agreed upon by the appropriate PMA commodity office and the crusher.

(b) *Quality.* The quality shall be prime, as defined in the rules of the National Cottonseed Products Association.

(c) *Delivery.* Within 15 days after the delivery date specified by the crusher in the notice of tender, CCC shall issue delivery instructions for immediate shipment.

(d) *Payment.* The crusher may present to CCC for provisional payment a sight draft drawn against CCC with an invoice and approved shipping documents attached for the value of the cake or meal, not including the value of bags, upon the basis of origin weights and quality of the cake or meal certified by the crusher. Final settlement will be made upon the basis of destination weights and quality determined in accordance with the rules of the National Cottonseed Products Association and the price of any bags used determined in accordance with paragraph (a) (5) of this section.

§ 643.583 *Off-quality products.* In any case where cottonseed purchased by a crusher under this subpart can not be processed into prime quality products, the crusher may tender, in accordance with § 643.579, products of less than prime quality but not less than the quality indicated by chemical analyses of such cottonseed. The price of crude cottonseed oil of less than prime quality so tendered and delivered shall be computed by applying a discount determined in accordance with the rules of the National Cottonseed Products Association to the base price specified in § 643.581. The price of any cake or meal or linters of less than prime quality so tendered and delivered shall be mutually agreed upon between crusher and CCC. The crusher shall support each tender of less than prime quality products under this section with certificates of chemical analyses of the cottonseed purchased under this subpart and such other information as CCC may require. No provisional payment shall be made for off-quality products tendered and delivered. Payment for off-quality products shall be made by draft drawn on CCC by the PMA commodity office after the destination weight and quality and the applicable price have been determined.

§ 643.584 *Ceiling prices.* By submitting each tender of products under this subpart, the crusher shall be deemed to have warranted that the prices for such products as provided in this subpart are not in excess of any ceiling prices established under Federal law and applicable to such tender of products. The prices to be paid by CCC for any products delivered by this crusher shall be the prices determined under this subpart or the ceiling prices applicable to such deliveries, as computed by the crusher, whichever are the lower. In the event that any prices provided in this subpart are reduced on specific deliveries in order to comply with ceiling price regulations, CCC shall make such upward adjustment as it determines appropriate in the prices for other products delivered by the crusher, but not in excess of the ceiling prices for such other products, to compensate the crusher on an overall price basis for such reduction in prices on specific deliveries.

§ 643.585 *Storage.* Any storage of tendered products for the account of CCC shall be covered under separate contracts negotiated with the crusher by the appropriate PMA commodity office.

§ 643.586 *Carrier and routing.* The crusher may select the originating carrier on shipments of cottonseed products but any charges in excess of the lowest available transportation rate between the point of shipment and the point of destination named in CCC's instructions shall be paid by the crusher. The routing and loading shall be in compliance with applicable carrier and governmental regulations.

§ 643.587 *Bond.* Upon CCC's request, the crusher shall furnish to CCC a bond conditioned upon the faithful performance by the crusher of his obligations under this subpart. Such bond shall be in such form, and in such amount, and with such sureties, as CCC may approve.

§ 643.588 *Movement of products.* CCC shall not be responsible for any loss or injury caused the crusher by failure of CCC to move cottonseed products due to acts of God or the public enemy, storms, floods, conflagrations, strikes, blockades, riots, embargoes, or priority, allocation, service, or other orders or directives issued by the Government, or any other cause beyond the control of CCC. Notwithstanding the foregoing provision, if CCC fails for any reason to issue shipping instructions within the period prescribed in this subpart, the crusher may have an official analysis or quality determination made, and shall not be responsible for any subsequent loss or deterioration in quality except for any loss, deterioration or damage due to fault or the negligence of the crusher.

§ 643.589 *Books and records.* The crusher shall keep a record of the name of seller, date of receipt, weight, and grade, of each lot of cottonseed purchased under this subpart. The crusher shall keep accurate books, records, and accounts with respect to all purchases of cottonseed and all other transactions under this subpart and shall furnish CCC such information and reports relating thereto as CCC may from time to time request. CCC may at any time examine and audit the books, records, and accounts of the crusher but only insofar as they relate to operations under this subpart.

§ 643.590 *Termination.* The crusher's rights and obligations under an acceptance of the offer contained in this subpart may be terminated at any time by CCC or the crusher, upon written notice to the other party, as to cottonseed purchased by the crusher after the date of such termination and cottonseed products manufactured therefrom. Notwithstanding such termination, the provisions of this subpart shall continue in full force and effect with respect to cottonseed products which are produced by the crusher from cottonseed purchased by the crusher prior to the date of such termination. Nothing contained in this section shall be construed to prevent the termination by CCC of the crusher's rights under this subpart at any time for breach of any provision of this subpart.

§ 643.591 *Benefits and non-discrimination.* No Member of or Delegate to the Congress of the United States shall be admitted to any share or part of any contract made under this subpart or to any benefit to arise therefrom, but this provision shall not be construed to extend to benefits arising from such contract if accruing to a corporation, nor shall this provision be construed to prohibit the purchase of cottonseed from a Member of or Delegate to the Congress in his capacity as a producer of such cottonseed. In the performance of any contract made under this subpart, the crusher shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall include a provision in any subcontract entered into in connection with the performance of any such contract whereby the subcontractor agrees that he will not discriminate against any of his employees or applicants to him for employment because of race, creed, color, or national origin.

§ 643.592 *Assignment.* Any contracts resulting from a tender of products by the crusher and acceptance or confirmation by CCC may be assigned or transferred by CCC at any time, in whole or

in part. The crusher shall not assign or transfer any rights or claims arising under this subpart and shall not subcontract for any processing under this subpart without prior written approval by the appropriate PMA commodity office.

§ 643.593 *Provisional payments.* Where the quality of any products delivered by the crusher under §§ 643.580–643.582 results, as determined by the appropriate PMA commodity office, in significant discounts upon final settlement, such office may require that any subsequent sight drafts drawn in accordance with such sections shall be drawn for 95 percent of the value of such products.

§ 643.594 *PMA commodity offices.* The PMA commodity offices and the cotton growing area served by each are shown below:

50 Seventh Street NE., Atlanta 5, Ga.: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

1114 Commerce Street, Dallas 2, Tex.: Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, Texas, and Illinois.

335 Fell Street, San Francisco 2, Calif.: Arizona, and California.

Issued this 11th day of August 1951.

[SEAL] JOHN H. DEAN,
Acting Vice President,
Commodity Credit Corporation.

Attest:

LIONEL C. HOLM,
Secretary.

Approved:

G. F. GEISSLER,
President,
Commodity Credit Corporation.

[F. R. Doc. 51–10053; Filed, Aug. 22, 1951; 8:45 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART B—UNITED STATES STANDARDS FOR FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS

UNITED STATES STANDARDS FOR SHELLED WHITE SPANISH PEANUTS

On July 3, 1951, a notice of rule making was published in the FEDERAL REGISTER (F. R. Doc. 51–7588; 16 F. R. 6466) regarding a proposed revision of United States Standards for Shelled White Spanish Peanuts under the authority contained in the Department of Agriculture Appropriation Act, 1951 (Pub. Law 97, 82d Cong., approved July 31, 1951) and the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621, et seq.). Interested parties were given the opportunity to submit written data, views and arguments with respect to the proposed standards. After consideration of all relevant matters presented and the fact of disagreement among various segments of the industry as to certain of the proposals, the United States Department of Agriculture finds that additional research will be necessary before a revision of the standards can be made, and the United States Standards for Shelled White Spanish Peanuts issued August 15, 1939, shall remain in effect.

(Sec. 205, 60 Stat. 1090, Pub. Law 97, 82d Cong., 7 U. S. C. 1624)

Done at Washington, D. C., this 16th day of August 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51–10058; Filed, Aug. 22, 1951; 8:47 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 943—MILK IN THE NORTH TEXAS MARKETING AREA

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AUTHORITY: §§ 943.0 to 943.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 943.0 *Findings and determinations*—(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 procedures, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area 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 supplies of and demand for such milk, and the minimum prices specified in the said order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

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

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate com-

merce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts within the month of: (i) Other source milk which is classified as Class I milk, and (ii) milk from producers including such handler's own production.

(b) *Additional findings.* In view of the number of handlers involved, the widely scattered location of their plants, the base forming period for producers, and the fact that this order will constitute the original imposition of a regulatory program of this nature for the market, the provisions other than those relating to prices and payments to producers, should be put into effect prior to the effective date of the provisions relating to prices and payments to producers, in order that handlers may have opportunity to make necessary adjustments in their accounting and other operational procedures to conform with all provisions of the order. It is hereby found and determined, in view of the aforesaid facts and circumstances, that good reason exists for making §§ 943.1 through 943.15, 943.20 through 943.22 (f), 943.30 through 943.34, 943.40 through 943.46, 943.97, 943.100 through 943.103, and 943.110 and 943.111 effective on September 1, 1951.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order which is marketed within the North Texas marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who during the determined representative period (April 1951) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below:

DEFINITIONS

§ 943.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 943.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States as is authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 943.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this subpart.

§ 943.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 943.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 943.6 *North Texas marketing area.* "North Texas marketing area," hereinafter called the marketing area, means all territory, including all municipal corporations, Federal military reservations, facilities and installations and State institutions, within the counties of Cooke, Collin, Dallas, Delta, Denton, Ellis, Fannin, Grayson, Hopkins, Hunt, Johnson, Kaufman, Lamar, Parker, Rockwall, and Tarrant, all in the State of Texas.

§ 943.7 *Approved plant.* "Approved plant" means:

(a) A milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream labeled Grade "A" is disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores); or,

(b) A milk plant approved by and under the routine inspection of the appropriate health authority of any municipal corporation in the marketing area which serves as a receiving station for a plant described in paragraph (a) of this section by receiving, weighing and commingling producer milk.

§ 943.8 *Unapproved plant.* "Unapproved plant" means any milk plant which is not an approved plant.

§ 943.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of an approved plant; or

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 943.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received directly from the farm at an approved plant: *Provided,* That if ungraded milk is regularly received at the premises of such approved plant with the approval of the applicable health authority having jurisdiction, only those persons whose milk is received at such approved plant who are producing milk under a dairy farm permit or rating issued by such health authority for the production of milk to be disposed of for consumption as Grade A milk shall be producers: *And provided further,* That if the applicable health authority shall notify the operator of an approved plant and the market administrator in writing that a person whose milk has been received at such approved plant is no longer qualified to have his milk received at such plant such person shall not be a producer on the basis of receipt of milk at such plant from the effective date of such notice until the effective date of a written notice from such health authority to the market administrator that such person is again qualified to have his milk received at such plant. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 943.61.

§ 943.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 943.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 943.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 943.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 943.80 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 943.15 *Excess milk.* "Excess milk" means milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and it shall include all milk received from producers for whom no daily average base can be computed pursuant to § 943.80.

MARKET ADMINISTRATOR

§ 943.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled

to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 943.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 943.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 943.97 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 943.96) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 943.30 to 943.32, inclusive;

(2) Maintained adequate records and facilities pursuant to § 943.33; or

(3) Made payments pursuant to §§ 943.90 to 943.95, inclusive.

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk, pursuant to § 943.51 (a) and the Class I butterfat differential pursuant to § 943.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 943.51 (b) and the Class II butterfat differential pursuant to § 943.52 (b), both for the preceding month; and,

(2) On or before the 12th day of each month, the uniform prices computed pursuant to § 943.72 or § 943.73, as applicable, and the butterfat differential computed pursuant to § 943.91, both applicable to milk delivered during the preceding month; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

(l) Furnish to a cooperative association for its members the data furnished pursuant to § 943.31 (a).

REPORTS, RECORDS AND FACILITIES

§ 943.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 943.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month, which shall show:

(a) The total pounds and the average butterfat test of milk received from each producer and cooperative association, the number of days, if less than the entire month, for which milk was received from such producer, and, for the months of April through June, such producer's deliveries of base milk and excess milk;

(b) The amount of payment to each producer and cooperative association; and,

(c) The nature and amount of any deductions or charges involved in such payments.

§ 943.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted for his account directly from producers' farms to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 943.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and,

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 943.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 943.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 943.30 shall be classified by the market administrator pursuant to

the provisions of §§ 943.41 to 943.46, inclusive.

§ 943.41 *Classes of utilization.* Subject to the conditions set forth in §§ 943.43 and 943.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream, cultured sour cream, any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk, (2) used to produce concentrated (including frozen) milk, flavored milk, or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II milk;

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

(1) Used to produce any product other than those specified in paragraph (a) of this section;

(2) Disposed of for livestock feed;

(3) In shrinkage up to 2 percent of receipts from producers;

(4) In inventory variations of milk, skim milk, cream, or any product specified in paragraph (a) of this section.

§ 943.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in receipts from producers and of other source milk.

§ 943.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 943.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler), unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That if either or both handlers have received other source milk the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk, if transferred or diverted to a producer-handler in the form of milk, skim milk, or cream.

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk from an approved plant to an unapproved plant more than 200 miles distant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk, if transferred in the form of cream under Grade A certification from an approved plant to an unapproved plant located more than 200 miles distant and as Class II milk if so transferred without Grade A certification.

(e) As Class I milk if transferred or diverted in the form of milk, skim milk or cream from an approved plant to an unapproved plant located not more than 200 miles distant by shortest highway distance as determined by the market administrator, unless:

(1) The handler claims classification as Class II milk on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the unapproved plant and the handler on or before the 7th day after the end of the month within which such transfer occurred; and

(2) The operator of the unapproved plant maintains books and records showing the recipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if the Class I utilization of skim milk and butterfat in such plant exceeds receipts at such plant of skim milk and butterfat, respectively, in milk direct from dairy farmers who the market administrator determines constitutes the regular source of supply for fluid usage of such unapproved plant in markets supplied by it, an amount of skim milk and butterfat equal to such excess shall be classified as Class I milk.

§ 943.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 943.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 943.45, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 943.41 (b) (3).

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classifiation as determined pursuant to § 943.44 (a);

(4) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 943.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Oxfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the

Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.96.

(c) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Carnation Co., Sulphur Springs, Tex.
The Borden Co., Mount Pleasant, Tex.
Lamar Creamery, Paris, Tex.
Fairmont Foods Co., Wichita Falls, Tex.

§ 943.51 *Class prices.* Subject to the provisions of § 943.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $2.00, subject to the following:

(1) For each month after September 1952, such price shall be increased 2.5 cents for each full percentage point that the total milk received from producers by all handlers during the second and third preceding months is a smaller percentage of the total Class I milk disposed of by all handlers (exclusive of producer-handlers and handlers partially exempt from this subpart pursuant to § 943.61) during such 2-month period than the minimum percentage listed herein opposite such 2-month period, and such price shall be decreased 2.5 cents for each full percentage point that such percentage during such 2-month period is a greater percentage than the maximum percentage listed herein opposite such 2-month period:

2-month period	Percentages		Month to which adjustment applies
	Minimum	Maximum	
July and August	110	127	October.
August and September	110	127	November.
September and October	105	120	December.
October and November	100	115	January.
November and December	100	115	February.
December and January	100	115	March.
January and February	100	115	April.
February and March	105	120	May.
March and April	115	132	June.
April and May	120	140	July.
May and June	125	150	August.
June and July	120	140	September.

(2) Except for adjustments pursuant to subparagraph (1) of this paragraph, such price for each of the months of October, November and December shall not be less than that for the preceding month, and such price for each of the months of April, May and June shall not be more than that for the preceding month.

(b) *Class II milk.* The higher of the prices computed pursuant to § 943.50 (b) or (c) for the current month.

§ 943.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 943.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 943.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the appropriate month by the applicable factor listed below and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.15.

APPLICATION OF PROVISIONS

§ 943.60 *Producer-handlers.* Sections 943.40 through 943.46, 943.50 through 943.52, 943.70 through 943.73, 943.80 through 943.81, and 943.90 through 943.97 shall not apply to a producer-handler.

§ 943.61 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to the total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified in Class I milk under this subpart is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this subpart and its value as determined pursuant to the other order to which he is subject. Such payments shall be made on or before the 13th day of the following month.

DETERMINATION OF UNIFORM PRICE

§ 943.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided,* That if the handler had overage of either skim milk or butterfat, there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 943.46 by the applicable class prices.

§ 943.71 *Computation of aggregate value used to determine uniform price(s).* For each month the market administrator shall compute as follows an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from the producers:

(a) Combine into one total the values computed pursuant to § 943.70 for all handlers who made the reports prescribed in § 943.30 and who made the payments pursuant to §§ 943.90 and 943.93 for the preceding month.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 943.94.

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent or add if such average butterfat content is less than 4.0 percent an amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 943.91 and multiplying the resulting figure by the total hundredweight of such milk:

§ 943.72 *Computation of uniform price.* For each of the months of July through March, the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers at an approved plant as follows:

(a) Divide the aggregate value computed pursuant to § 943.71 by the total hundredweight of milk included in such computation; and

(b) Subtract not less than 4 cents nor more than 5 cents.

§ 943.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, received from producers at an approved plant as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in the computations pursuant to § 943.71 by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value computed pursuant to § 943.71 and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations;

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

DETERMINATION OF BASE

§ 943.80 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 943.81:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of October through January immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period.

§ 943.81 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

PAYMENTS

§ 943.90 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to §§ 943.72 and 943.73, adjusted by the butterfat differential computed pursuant to § 943.91, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 943.94, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month, at not less than the Class II price of the preceding month.

(c) On or before the 13th and 23rd days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 943.31.

§ 943.91 *Producer-butterfat differential.* In making payments pursuant to § 943.90, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 943.92 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 943.61 (b), 943.93 and 943.95, and out of which he shall make all payments to handlers pursuant to §§ 943.94 and 943.95.

§ 943.93 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 943.70 is greater than the amount required to be paid producers by such handler pursuant to § 943.90.

§ 943.94 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 943.70 is less than the amount required to be paid producers by such handler pursuant to § 943.90: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market adminstrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 943.95 *Adjustment of accounts.* Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 943.96 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 943.90, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

§ 943.97 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 943.98 *Termination of obligation.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the

handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and,

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8 (c) (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 943.100 *Effective time.* The provisions of this subpart or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 943.101.

§ 943.101 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 943.102 *Actions after suspension or termination.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 943.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such litigation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 943.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 943.111 *Separability of provisions.* If any provision of this subpart or its application to any person or circumstances, is held invalid, the application of such provision and the remaining provisions of this subpart to other persons or circumstances, shall not be affected thereby.

Issued at Washington, D. C., this 17th day of August 1951. Sections 943.1 through 943.15, 943.20 through 943.22 (f), 943.30 through 943.34, 943.40 through 943.46, 943.97, 943.100 through 943.103, and 943.110 and 943.111 shall be effective on and after the 1st day of September 1951, and §§ 943.22 (g), (h), (i), (j), and (k), 943.50 through 943.52, 943.60, 943.61, 943.70 through 943.73, 943.80, 943.81, 943.90 through 943.96, and 943.98 shall be effective on and after the 1st day of October 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-10113; Filed, Aug. 22, 1951; 8:57 a. m.]

PART 950—PEACHES GROWN IN UTAH

In accordance with the revised Federal Register Regulations (1 CFR Part 1), the format of the order of the Secretary of Agriculture (Order No. 50, 5 F. R. 2631; 7 CFR Part 950), regulating the handling of peaches grown in Utah (including the requisite findings set forth therein), and the format of the Administrative Committee's rules and regulations (15 F. R. 5154, 16 F. R. 7505; 7 CFR Part 950) adopted pursuant thereto with the approval of the Secretary of Agriculture, are recodified as hereinafter set forth.

This recasting of the format and recodification is not intended, nor shall it be deemed, to make any substantive change in the provisions of the aforesaid order of the Secretary and the aforesaid regulations of the Administrative Committee.

Done at Washington, D. C., this 20th day of August 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

SUBPART—ORDER RELATIVE TO HANDLING

FINDINGS AND DETERMINATIONS

EFFECTIVE TIME AND TERMINATION

MISCELLANEOUS

SUBPART—RULES AND REGULATIONS

DEFINITIONS

GENERAL

REGULATION OF SHIPMENTS BY GRADES AND SIZES

EXEMPT SHIPMENTS

REPORTS BY HANDLERS

AUTHORITY: §§ 950.1 to 950.140 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

SUBPART—ORDER RELATIVE TO HANDLING

SOURCE: §§ 950.1 to 950.95 contained in Order No. 50, 5 F. R. 2631.

FINDINGS AND DETERMINATIONS

§ 950.0 *Findings and determinations.* The Secretary has found and proclaimed that the purchasing power of peaches grown in the State of Utah during the period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such peaches can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919–July 1929, and that the period August 1919–July 1929 is the base period to be used in connection with this subpart in determining the purchasing power of such peaches; and

The Secretary finds upon the basis of the evidence introduced at the hearing and the record thereof:

(a) That at the time of the hearing the prices received by the producers of such peaches were at a level that gave such peaches a purchasing power with respect to articles that the producers thereof buy, appreciably below the purchasing power of such peaches during the base period;

(b) That the regulation of shipments of such peaches by grades or sizes, as prescribed in this subpart, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such peaches, tending to establish prices to the producers thereof at a level that will give such peaches a purchasing power with respect to articles that the producers thereof buy, equivalent to the purchasing power of such peaches during the base period;

(c) That this subpart is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production or marketing areas would not effectively carry out the declared policy of the act; and

(d) That this subpart and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to peaches grown in the State of Utah by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such peaches a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such peaches in the base period, and by protecting the interest of the consumer by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (2) authorizing no action which has for its purpose the maintenance of prices to the producers of such peaches above the level which it is declared in the act to be the policy of Congress to establish; and the Secretary finds:

(i) That a marketing agreement regulating the handling of peaches grown in the State of Utah, executed on the 19th day of July 1940, upon which a hearing was held on April 22, 1940, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the peaches covered by this order) who, during the 1939 season, handled not less than fifty (50) percent of the volume of such peaches covered by this order which was marketed during the same season;

(ii) That this subpart regulates the handling of such peaches in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement;

(iii) That the issuance of this subpart is favored by producers who, during the period of January 1, 1939, to December 31, 1939, both dates inclusive (which is hereby determined to be a representative period), produced for market within the State of Utah at least two-thirds (⅔) of the volume of peaches produced for market within such production area within the said period:

It is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of peaches grown in the State of Utah as is in the current of interstate commerce or commerce with Canada, or which directly burdens, obstructs, or affects such commerce in such peaches, from and after July 24, 1940, shall be in conformity to and in compliance with the terms and conditions of this subpart.

DEFINITIONS

§ 950.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States of America.

§ 950.2 *Act.* "Act" means Public Act No. 10, 73d Congress (48 Stat. 31), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

§ 950.3 *Person.* "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

§ 950.4 *Peaches.* "Peaches" means all varieties of peaches grown in the State of Utah for market.

§ 950.5 *Producer.* "Producer" means any person engaged in growing peaches.

§ 950.6 *Shipper and handler.* "Shipper" and "handler" are synonymous and mean any person (except a common carrier of peaches owned by another person), who, as owner, agent, or otherwise, first ships peaches, or first causes peaches to be shipped, in fresh form.

§ 950.7 *Ship.* "Ship" means to sell, transport, offer for transportation, or ship peaches in the current of interstate commerce or commerce with Canada or so as directly to burden, obstruct, or affect such commerce.

§ 950.8 *Fiscal year.* "Fiscal year" means the twelve-month period beginning May 1 of any year and ending April 30 of the following year, both dates inclusive.

§ 950.9 *District.* "District" means any of the following geographical divisions within the State of Utah:

(a) "Salt Lake-Davis District," which shall include the counties of Davis and Salt Lake.

(b) "Weber District," which shall include the county of Weber.

(c) "Washington District," which shall include the county of Washington.

(d) "South Utah District," which shall include Juab County and all of the area in Utah County south of a straight line running east and west through the south city limits of Provo City.

(e) "North Utah District," which shall include all the area in Utah County not included in the South Utah District.

(f) "Box Elder District," which shall include the county of Box Elder and all of the area in the State of Utah not included in Salt Lake-Davis District, Washington District, North Utah District, South Utah District, and Weber District.

§ 950.10 *Washington District Advisory Committee.* "Washington District Advisory Committee" means the committee established pursuant to paragraph (i) of § 950.32.

ADMINISTRATIVE COMMITTEE

§ 950.20 *Establishment and membership.* An Administrative Committee is hereby established consisting of nine members, six of whom shall represent producers, and three of whom shall rep-

resent shippers. There shall be an alternate for each member of the committee.

§ 950.21 *Selection of initial members.* The initial members of the Administrative Committee and their respective alternates shall be selected by the Secretary as soon as possible after the effective date of this subpart. In selecting the initial members and their respective alternates, the Secretary shall make his selection upon the basis of the representation provided for in §§ 950.22 and 950.23.

§ 950.22 *Nomination and selection of successors to initial producer members of the Administrative Committee.* (a) Nominations of producer members of the Administrative Committee and their respective alternates, subsequent to the initial members and alternates, shall be made at a meeting of producers in each of the districts, held at such times (on or before April 1 of each year) and places as the Administrative Committee shall designate. At each of such meetings, the producers eligible to participate therein shall select a chairman and a secretary therefor. In the election of nominees for members and for alternates for such members, each producer shall be entitled to vote in accordance with the provisions of paragraph (b) of this section. The chairman of each meeting shall announce at such meeting the name of each person for whom votes have been cast, whether as member or as alternate, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary.

(b) Only producers shall participate in the nominations of producer members and their alternates, and a producer may participate only in the election held in the district in which he produces peaches. No producer shall participate in the election of members and their alternates in more than one district in any one fiscal year. In any such election, each producer shall be entitled to cast but one vote on behalf of himself, his agents, partners, and representatives for each nominee to be elected. Proxy voting shall not be allowed.

(c) The producers in each district shall elect two nominees for a producer member and two nominees for an alternate member from such district, and the Secretary shall select one producer member and his respective alternate for such district from among the nominees elected by the producers in such district.

§ 950.23 *Nomination and selection of successors to initial shipper members of the Administrative Committee.* (a) Shipper members of the Administrative Committee and their respective alternates, subsequent to the initial members and alternates, shall be nominated and selected as follows:

(1) Two nominees for a member and two nominees for an alternate member shall be elected by delegates representing cooperative associations of producers which are shippers and the Secretary shall select one member and his alternate from among such nominees.

(2) Two nominees for a member and two nominees for an alternate member shall be elected by carlot shippers who ship in carloads by rail, and the Secretary shall select one member and his alternate from among such nominees.

(3) Two nominees for a member and two nominees for an alternate member shall be elected by shippers other than carlot shippers who ship in carloads by railroad and producer cooperative associations, and the Secretary shall select one member and his alternate from among such nominees.

(b) Each cooperative association of producers shall select one delegate from among its members, officers, or employees. Nominations for a member and his alternate to represent cooperative associations of producers which are shippers, subsequent to the initial member and his alternate, shall be made at a meeting of such delegates, held at such time (on or before April 1 each year) and place as the Administrative Committee shall designate. At each such meeting the delegates shall select a chairman and a secretary therefor. In the election of nominees for such member and alternate, each delegate shall be entitled to cast but one vote for each nominee to be elected. The chairman of each meeting shall announce at such meeting the name of each person for whom votes have been cast, whether as member or alternate, and the number of votes cast for each such person, and the chairman or the secretary of such meeting shall transmit such information to the Secretary.

(c) Nominations for a member and his alternate to represent carlot shippers who ship in carloads by railroad, subsequent to the initial member and alternate, shall be made at a meeting of such shippers at such time (on or before April 1 of each year) and place as the Administrative Committee shall designate. At each such meeting such shippers shall select a chairman and a secretary therefor. In the election of nominees for such member and alternate, each such shipper shall be entitled to cast but one vote on behalf of himself, his agents, partners, and representatives for each nominee to be elected. Proxy voting shall not be allowed. The chairman of the meeting shall announce at such meeting the name of each person for whom votes have been cast, whether as member or alternate, and the number of votes cast for each such person, and the chairman or the secretary of such meeting shall forthwith transmit such information to the Secretary.

(d) Nominations for a member and his alternate to represent shippers other than carlot shippers who ship in carloads by railroad and cooperative associations of producers which are shippers, subsequent to the initial member and alternate, shall be made at a meeting of such shippers at such time (on or before April 1 of each year) and place as the Administrative Committee shall designate. At each such meeting the shippers eligible to participate therein shall select a chairman and secretary therefor. In the election of nominees for a member and alternate, each such shipper shall be entitled to cast but one vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives for each nominee to be elected. Proxy voting shall not be allowed. The chairman of the meeting shall announce at such meeting the name of each person for whom votes have been cast, whether as member or alternate, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary.

§ 950.24 *Eligibility for membership.* (a) The members and alternates of the Administrative Committee selected to represent producers shall be producers of peaches in the district in and for which they are nominated and selected.

(b) The member and alternate of the Administrative Committee selected to represent carlot shippers who ship in carloads by railroad shall be members or employees of a firm which shipped twenty or more carloads of peaches by railroad during the fiscal year preceding the fiscal year for which they have been selected to serve on the said committee, and shall be residents of the State of Utah.

(c) The member and alternate of the Administrative Committee selected to represent shippers other than shippers who ship in carloads by railroad and cooperative associations of producers which are shippers shall be shippers who, during the fiscal year preceding the fiscal year for which they have been selected to serve on the said committee, shipped peaches in other than carloads by railroad (e. g., by truck), and shall be residents of the State of Utah.

(d) The member and alternate of the Administrative Committee selected to represent cooperative associations of producers which are shippers shall be members or employees of such cooperative associations.

§ 950.25 *Failure to nominate.* In the event nominations are not made and the names of such nominees are not submitted to the Secretary on or before April 10 of any year, pursuant to §§ 950.22 and 950.23, the Secretary may select such members and alternates without regard to nominations.

§ 950.26 *Qualification by members and alternates.* Any person selected by the Secretary as a member or as an alternate for a member of the Administrative Committee shall qualify therefor by filing a written acceptance thereof with the Secretary within 15 days after being notified of such selection.

§ 950.27 *Term of office.* The initial members and their respective alternates shall hold office for a term beginning on the date designated by the Secretary and ending April 30, 1941, or until their successors are selected and have qualified. Members and alternates selected subsequent to the initial term shall serve during the fiscal year for which they have been selected or until their successors are selected and have qualified.

§ 950.28 *Alternate members of the Administrative Committee.* An alternate for a member shall act in the place and stead of such member during such member's absence, or, in the event of the death, removal, resignation, or disqualification of such members, until a successor for such member is selected and has qualified.

§ 950.29. *Vacancies.* To fill any vacancy occasioned by the failure to qualify of any person selected as a member or as an alternate for a member of the Administrative Committee, or, in the event of the death, removal, resignation, or disqualification of any member of any alternate, nominations and selections to fill such vacancy shall be made in the manner set forth in §§ 950.22 and 950.23. If nominations to fill such vacancy are not made or the names of such nominees are not submitted to the Secretary within 20 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

§ 950.30 *Compensation and expenses.* Members of the Administrative Committee, and alternates when acting for members, may receive compensation (not to exceed the amount of $5 per diem) for attending meetings; and such members and alternates, and the members of the Washington District Committee, shall be reimbursed for expenses necessarily incurred in the performance of their duties under this subpart.

§ 950.31 *Powers.* The Administrative Committee shall have the following powers:

(a) To administer, as specifically provided in this subpart, the terms and provisions of this subpart;

(b) To make administrative rules and regulations in accordance with this subpart, and to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 950.32 *Duties.* The duties of the Administrative Committee shall be as follows:

(a) To act as intermediary between the Secretary and any producer or shipper;

(b) To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the Administrative Committee, which minutes, books, and records shall be subject, at any time, to examination by the Secretary;

(c) To study and assemble data on the growing, shipping, and marketing conditions respecting peaches;

(d) To submit to the Secretary for each fiscal year a budget of its expenses for such year;

(e) To furnish to the Secretary such available information as the Secretary requests;

(f) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes (49 Stat. 774, as amended; 7 U. S. C. and Sup. 612c);

(g) To cause the books of the Administrative Committee to be audited by one or more competent accountants at least once each fiscal year, and at such other times as the committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports;

(h) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(i) To appoint a Washington District Advisory Committee (which committee may advise and consult with the Administrative Committee and its Washington District producer member in reference to regulation of shipments of peaches grown in the Washington District) of five producer members, one member to be selected by the producers in each of the towns of Santa Clara, Toquerville, Hurricane, La Verkin, and Leeds in the Washington District;

(j) To give shippers and growers adequate notice of all meetings of the Administrative Committee;

(k) To give the Secretary the same notice of meetings of the Administrative Committee as is given to the members of the committee;

(l) To give adequate notice of all meetings of the Administrative Committee to representatives who have been designated by the Utah State College of Agriculture and the Utah State Department of Agriculture to serve the Administrative Committee in an advisory capacity;

(m) To select a chairman of the Administrative Committee and, from time to time, such other officers as it may deem advisable; and

(n) Each season prior to making any recommendation to the Secretary for a regulation of shipments pursuant to §§ 950.50 through 950.53, to determine the marketing policy to be followed during the ensuing season and to submit such policy to the Secretary; said policy report to contain, among other provisions, information relative to the estimated total production and shipments of peaches by districts; information as to the expected general quality and size of peaches; possible or expected demand conditions of different market outlets; supplies of competitive commodities; such analysis of the foregoing factors and conditions as the committee deems appropriate; and the type of regulations of shipments expected to be recommended.

§ 950.33 *Procedure.* All decisions of the committee shall be made by not less than six affirmative votes: *Provided,* That no recommendation for the establishment of a regulation of shipments pursuant to § 950.50, during a period when shipments of peaches are or will be made exclusively in the Washington District, shall be made except upon the affirmative vote of the member therefrom. Voting may be by telegraph or telephone and all telephone votes shall be confirmed by letter or telegram.

§ 950.34 *Rights of the Secretary.* The members of the Administrative Committee, including successors and alternates, and any agent or employee appointed or employed by the Administrative Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Administrative Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 950.35 *Funds and other property.* (a) All funds received by the Administrative Committee pursuant to any of the provisions of this subpart shall be used solely for the purposes specified in this subpart; and the Secretary may require the committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, or expiration of the term of office of any member of the Administrative Committee, all books, records, funds, and other property in his possession which relate to the business of the said committee shall be delivered to his successor in office or to the committee, and such assignments and other instruments shall be executed as may be necessary to vest in his successor or in the committee full title to all such books, records, funds, and other property.

EXPENSES AND ASSESSMENTS

§ 950.40 *Expenses.* The Administrative Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this subpart. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 950.41.

§ 950.41 *Assessments.* Each shipper shall pay to the Administrative Committee, upon demand, such shipper's pro rata share of the expenses that the Secretary finds will be necessarily incurred by the committee for the maintenance and functioning of the committee during each fiscal year. Each shipper's pro rata share shall be based upon a rate of assessment fixed by the Secretary and shall be that proportion of such expenses which the total quantity of peaches shipped by such shipper during the fiscal year is of the total quantity of peaches shipped by all shippers during such fiscal year. The rate of assessment may be adjusted from time to time by the Secretary in order to cover any later finding by the Secretary of the estimated expenses or the actual expenses of the committee during said fiscal year. The Administrative Committee may, with the approval of the Secretary, exempt shipments up to and including 1,000 pounds net weight of peaches from such assessments.

§ 950.42 *Shipper accounts.* (a) At the end of each fiscal year the Administrative Committee shall credit each shipper with any amount paid by such

shipper in excess of his pro rata share of the expenses, or shall debit such shipper with the amount by which his pro rata share exceeds the amount paid by him. Any such debits shall become due and payable upon demand of the committee.

(b) The Administrative Committee, may, with the approval of the Secretary, maintain a suit in it own name or in the names of its members for the collection of any shipper's pro rata share of expenses.

REGULATION OF SHIPMENTS BY GRADES AND SIZES

§ 950.50 *Recommendation of the Administrative Committee.* Whenever the Administrative Committee deems it advisable to regulate the shipment of any variety or varieties of peaches by grades or sizes or combinations thereof during any specified period or periods, it shall so recommend to the Secretary. At the time of submitting any such recommendation, the committee shall furnish to the Secretary all pertinent data and information upon which it acted in making such recommendation, and such other data and information as the Secretary may request. The committee shall promptly give adequate notice to shippers and producers of any such recommendation submitted by it to the Secretary.

§ 950.51 *Regulation of shipments.* Whenever the Secretary finds from the recommendation made by the Administrative Committee, and from the information submitted by the committee or from other available information, that to limit the shipment of any variety or varieties of peaches to particular grades or sizes or combinations thereof would tend to effectuate the declared policy of the act, he shall so limit the shipment of such peaches during a specified period or periods. The Secretary shall immediately notify the committee of the issuance of such regulation, and the committee shall promptly give adequate notice thereof to shippers and producers.

§ 950.52 *Exemption certificates.* (a) Before the institution of any limitation of shipments pursuant to § 950.51, the Administrative Committee shall adopt and announce the procedural rules by which exemption certificates will be issued to producers. Whenever the committee recommends to the Secretary a regulation of shipments pursuant to § 950.50, the committee shall determine the percentage which the quantity of grades and sizes of each variety of peaches permitted to be shipped under such regulation bears to the total quantity of such variety of peaches which could be shipped in the absence of such regulation and the committee shall forthwith announce this percentage. An exemption certificate shall thereafter be issued to any producer who furnishes proof that he will be prevented, because of the regulation established, from shipping as large a percentage of his peaches of any specified variety or varieties as the percentage for all producers as determined by the committee. Such exemption certificate shall permit the producer to market that quantity of the regulated grades and sizes of peaches as will enable him to market as large a percentage of his peaches as the percentage for all producers. The Administrative Committee shall notify the Secretary of all exemption certificates issued under this section.

(b) If any producer is dissatisfied with the action taken with respect to his application for an exemption certificate, he may appeal to the Secretary, whose decision in the matter shall be final.

(c) The Secretary shall have power to modify, change, alter, or amend any of the procedural rules governing the issuance of exemption certificates and any exemption certificate issued under this section.

§ 950.53 *Inspection and certification.* During any period in which shipments are regulated pursuant to § 950.51, each shipper shall, prior to making each shipment of peaches, cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Promptly thereafter, such shipper shall submit or cause to be submitted to the Administrative Committee a copy of the Federal-State inspection certificate, showing the grades and sizes of peaches, issued on each such shipment. The Administrative Committee may, with the approval of the Secretary, exempt shipments up to and including 1,000 pounds net weight of peaches from such inspection and certification.

REPORTS BY HANDLERS

§ 950.60 *Reports.* Upon request of the Administrative Committee, made with the approval of the Secretary, each shipper shall furnish the committee, in such manner and at such times as it prescribes, such information as will enable it to exercise its powers and to perform its duties under this subpart.

LIABILITY OF ADMINISTRATIVE COMMITTEE MEMBERS

§ 950.65 *Liability.* No member, alternate member, or employee of the Administrative Committee shall be held liable, either individually or jointly with others, in any way whatsoever, to any shipper or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty.

COMPLIANCE AND EXCEPTIONS

§ 950.70 *Compliance.* Except as otherwise specifically provided in this subpart, no shipper shall ship peaches, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this subpart.

§ 950.71 *Shipments for relief or for by-products.* Nothing contained in this subpart shall be construed to authorize any limitation of the right on the part of any person to ship peaches in any amount for commercial canning, freezing, or conversion into by-products; or for consumption by charitable institutions or for distribution by relief agencies, nor shall any assessment be levied on peaches so shipped. The Administrative Committee may prescribe adequate safeguards to present peaches shipped for any of such purposes from entering commercial channels of trade contrary to the provisions of this subpart.

EFFECTIVE TIME AND TERMINATION

§ 950.80 *Effective time.* The provisions of this subpart shall become effective July 24, 1940 and shall continue in force until terminated in one of the ways specified in § 950.81.

§ 950.81 *Termination.* (a) The Secretary may at any time terminate the provisions of this subpart by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that any such provision obstructs or does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any current marketing period whenever he finds that such termination is favored by a majority of the producers of peaches who, during such current marketing period, have been engaged in the production of peaches for market: *Provided*, That such majority have, during such period, produced for market more than 50 percent of the total volume of peaches produced for market during such period; but such termination shall be effective only if notice thereof is given on or before February 1 of such current marketing period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 950.82 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the members of the Administrative Committee when functioning shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements, or deliver all funds and property on hand, together with all books and records of the Administrative Committee and the trustees, to such person as the Secretary may direct, and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any funds collected for expenses pursuant to the provisions of this subpart and held by such trustees or such other person, over and above amounts necessary to meet outstanding obligations and the expenses incurred necessarily by the trustees of such other person in the performance of their du-

ties under this subpart, shall, as soon as practicable after the termination of this subpart, be returned to the shippers pro rata in proportion to their contributions made pursuant to this subpart.

(d) Any person to whom funds, property, or claims have been delivered by the Administrative Committee or its members upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of the committee or upon the trustees.

MISCELLANEOUS

§ 950.90 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 950.91 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 950.92 *Separability.* If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 950.93 *Derogation.* Nothing contained in this subpart is or shall be construed to be in derogation or in modification of the rights of the Secretary to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 950.94 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the Administrative Committee or by the Secretary.

§ 950.95 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

SUBPART—RULES AND REGULATIONS

SOURCE: §§ 950.100 to 950.140 appear at 15 F. R. 5154; 16 F. R. 7505.

DEFINITIONS

§ 950.100 *Order.* "Order" means Order No. 50 (7 CFR Part 950) regulating the handling of peaches grown in the State of Utah.

§ 950.101 *Marketing agreement.* "Marketing agreement" means Marketing Agreement No. 91.

§ 950.102 *Terms.* Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

GENERAL

§ 950.115 *Communications.* Unless otherwise provided in the marketing agreement and the order or by specific direction of the Administrative Committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed to Administrative Committee, Room 412, State Capitol Building, Salt Lake City, Utah.

REGULATION OF SHIPMENTS BY GRADES AND SIZES

§ 950.120 *Exemption certificates.* (a) Each application for an exemption certificate shall be submitted on Form A "Application for Exemption from Grade and Size Regulation," which may be obtained from the Administrative Committee, and shall contain the following information:

(1) Name and address of applicant;

(2) Location of each orchard from which peaches will be shipped pursuant to the exemption certificate requested;

(3) Estimated total production of peaches from such orchard and all other orchards owned or controlled by such applicant;

(4) Estimated percentage of peaches of such production which cannot be shipped because of the then effective (i) grade regulation, and (ii) size regulation, together with the reasons why such percentage fails to meet the requirements of the grade and size regulations; and

(5) The total quantity of such peaches which the applicant shipped or otherwise disposed of since the beginning of the then current peach shipping season.

(b) The Administrative Committee shall promptly verify all statements contained in each application for an exemption certificate. In the event the Administrative Committee finds that the applicant is entitled to an exemption certificate, it shall issue, or cause to be issued, an appropriate form of exemption certificate. If the Administrative Committee finds that the applicant is not entitled to an exemption certificate, it shall so advise the applicant promptly in writing and state the reasons therefor.

(c) Each producer who ships peaches, or causes peaches to be shipped, pursuant to an exemption certificate, shall submit promptly to the Administrative Committee an accurate report with respect to the disposition of each such shipment, and the date and quantity thereof.

§ 950.130 *Peaches exempt from inspection.* Peaches included in a shipment of peaches which does not aggregate more than 1,000 pounds, net weight, shall be exempt from the inspection and certification provisions of the marketing agreement and order.

REPORTS BY HANDLERS

§ 950.140 *Reports.* Each handler shall, with respect to all peaches shipped by him each day, promptly report, or cause to be reported, to the Administrative Committee the point of origin of each shipment, the number and type of packages, the grades and sizes of the peaches, and the number of the railroad car or the license number of the truck in which such peaches were shipped.

[F. R. Doc. 51-10112; Filed, Aug. 22, 1951; 8:57 a. m.]

PART 977—MILK IN THE PADUCAH, KY., MARKETING AREA

SUBPART—ORDER RELATIVE TO HANDLING

Sec.

AUTHORITY: §§ 977.0 to 977.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

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

(a) *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, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held March 12 and 13, 1951, at Paducah, Kentucky, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearings and the record thereof, it is found that:

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

(b) *Additional findings.* It is necessary, in the public interest, to make this order, as amended, effective not later than September 1, 1951. Any further delay in the effective date of this order, as amended, will seriously threaten the orderly marketing of milk in the Paducah, Kentucky, marketing area. The need for the said order is also disclosed by the aforesaid decision of the Secretary of Agriculture which was executed on July 27, 1951. The provisions of the said order are well known to handlers—the public hearing having been held on March 12 and 13, 1951, the recommended decision having been published in the FEDERAL REGISTER (16 F. R. 5787) June 16, 1951, and the final decision (16 F. R. 7359) having been executed by the Secretary on July 24, 1951. Therefore, reasonable time under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order, as amended, effective September 1, 1951, 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. (See sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by this order, as amended, which is marketed within the Paducah, Kentucky, marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, as amended, is the only practical means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the Paducah, Kentucky, marketing area; and

(3) The issuance of this order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (May 1951), were engaged in the production of milk for sale in the said marketing area, and who participated in a referendum on the question of approval of its issuance.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Paducah, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 977.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 977.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 977.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 977.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 977.5 *Paducah, Kentucky, marketing area.* "Paducah, Kentucky, marketing area," called the "marketing area" in this subpart, means all the territory within McCracken County, Kentucky.

§ 977.6 *Pool plant.* "Pool plant" means:

(a) Any plant, which is approved by the Paducah-McCracken County Health Department, at which milk is received from producers, and from which Class I milk via delivery routes or plant stores is disposed of in the marketing area; or

(b) Any plant which is approved by such health department to furnish milk, skim milk, or cream to a plant described in paragraph (a) of this section for disposition as Class I milk in the marketing area, and at which milk is received from producers.

§ 977.7 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing, or bottling plant other than a pool plant.

§ 977.8 *Producer.* "Producer" means any person, irrespective of whether such person is also a handler, who is certified by the Paducah-McCracken County Health Department for the production of milk which is permitted by such health authority to be sold as Grade "A" bottled milk in the marketing area, and which is:

(a) Received at a pool plant; or

(b) Diverted by a handler from a pool plant to a nonpool plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

§ 977.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association of producers, as defined in § 977.87 (b), with respect to milk of producers diverted for the account of such association to any pool plant or nonpool plant; or

(c) An person in his capacity as operator of a nonpool plant from which Class I milk is disposed of in the marketing area via delivery routes or plant stores during the delivery period.

§ 977.10 *Producer-handler.* "Producer-handler" means any person who is both a producer and a handler but who receives no milk from other producers.

§ 977.11 *Other source milk.* "Other source milk" means all milk, skim milk, cream, or any milk product received at a pool plant, except:

(a) That received from producers;

(b) That received from a pool plant of another handler, other than a producer-handler; and

(c) Any nonfluid milk product received and disposed of in the same form.

§ 977.12 *Delivery period.* "Delivery period" means the calendar month, or

the total portion thereof, during which the provisions of this subpart are effective.

MARKET ADMINISTRATOR

§ 977.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 977.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 977.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this subpart;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 977.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 977.87 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made the reports or payments required pursuant to §§ 977.30, 977.62, 977.80 and 977.82;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Upon request, report, on or before the 25th day after the end of each delivery period, to each cooperative association described in § 977.87 (b) the percentage of milk which was caused to be delivered by such association or by its members and which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(i) Verify all reports and payments required to be made by handlers pursuant to the provisions of this subpart;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this subpart;

(k) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 6th day after the end of such delivery period, the minimum class prices and the butterfat differential to handlers; and

(2) On or before the 10th day after the end of such delivery period, the uniform price and the butterfat differential to producers.

REPORTS, RECORDS, AND FACILITIES

§ 977.30 *Submission of reports.* Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) On or before the 6th day after the end of each delivery period:

(1) The receipts, utilization, and butterfat tests of all milk, skim milk, cream, and milk products required to be classified pursuant to § 977.40.

(2) A statement of the disposition of Class I milk outside the marketing area (other than from delivery routes serving stops both within and without the marketing area);

(3) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(4) The name and address of each producer who discontinues deliveries of milk, and the date on which the milk of such producer was last received.

(b) Within 20 days after the end of each delivery period, his producer pay roll, which shall show for such delivery period:

(1) Each producer's total delivery of milk with the average butterfat test thereof; and

(2) The net amount of the payment made to each producer with the price, deductions, and charges involved.

§ 977.31 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(a) Verify the receipts and disposition of all milk and milk products required to be reported and, in case of errors or omissions, ascertain the correct figures;

(b) Weigh, sample, and test for butterfat content all milk and milk products handled; and

(c) Verify payments to producers.

§ 977.32 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such 3-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 977.40 *Basis of classification.* The market administrator shall classify, on the basis of the classes set forth in § 977.41 and subject to the conditions of §§ 977.42, 977.43, and 977.44, all receipts within the delivery period by a handler of (a) milk from producers (including his own farm production), (b) milk, skim milk, cream, and milk products from other handlers, and (c) other source milk; and all milk of producers diverted by a cooperative association.

§ 977.41 *Classes of utilization.* The classes of utilization shall be as follows:

(a) Class I milk shall be all milk, skim milk, and cream disposed of in fluid form as milk, buttermilk, milk drinks (whether plain or flavored), and cream; and all milk, skim milk, and cream not specifically accounted for as Class II milk.

(b) Class II milk shall be all milk, skim milk, and cream accounted for (1) as used to produce a product other than those specified in Class I milk, (2) as actual plant shrinkage of milk received from producers, but not to exceed 2 percent of the total receipts of such milk, and (3) as actual plant shrinkage of other source milk: *Provided,* That if milk received from producers is used in the form of milk, skim milk, or cream in conjunction with other source milk, the shrinkage allocated to the milk received from producers shall not exceed its pro rata share computed on the basis of the proportion of the volumes received from the various sources to their total.

§ 977.42 *Responsibility of handlers and reclassification of milk.* (a) All milk, skim milk, and cream received shall be Class I milk, unless the handler who first receives such milk, skim milk, or cream proves to the market administrator that such milk, skim milk, or cream should be classified otherwise.

(b) Any milk, skim milk, or cream classified in one class shall be reclassified if used or reused by such handler or by another handler in another class and the adjustments necessary to reflect

the reclassified value of such milk, skim milk, or cream shall be made in the manner specified in § 977.84 with respect to errors in payment.

§ 977.43 *Transfers of milk, skim milk, and cream.* (a) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a pool plant of another handler shall be Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided,* That milk, skim milk, or cream so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 977.44 (b), and any excess of milk, skim milk, or cream shall be assigned to Class I milk.

(b) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a nonpool plant shall be Class I milk, unless (1) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the operator of the nonpool plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, and (2) the operator of the nonpool plant maintains books and records showing the utilization of all milk and milk products at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of milk, skim milk, and cream in such indicated use, the remaining pounds shall be classified as Class I milk.

§ 977.44 *Allocation of milk classified.* The amount remaining in each class after making the following computations shall be the amount in such class allocated to milk received from producers:

(a) Subtract from the total pounds in Class II milk the pounds of actual plant shrinkage of milk received from producers which does not exceed 2 percent of the total receipts of such milk;

(b) Subtract from the pounds remaining in each class, in series beginning with Class II milk, the total pounds of other source milk received;

(c) Subtract from the pounds remaining in each class the total pounds of milk, skim milk, and cream received from pool plants of other handlers and assigned to such class pursuant to § 977.43 (a); and

(d) Add to the pounds remaining in Class II milk the pounds subtracted pursuant to paragraph (a) of this section; or if the pounds remaining in all classes exceeds the pounds of milk received from producers, subtract such excess from the pounds remaining in the various classes, in series beginning with Class II milk.

MINIMUM PRICES

§ 977.50 *Class prices.* Subject to the conditions of § 977.52, each handler shall pay producers, at the time and in the manner set forth in §§ 977.80 through 977.85 not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk, computed pursuant to § 977.44:

(a) *Class I milk.* The price of Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.70 for the delivery periods of September through February; $1.20 for the delivery periods of March and August; and 60 cents for the delivery periods of April through July.

(b) *Class II milk.* The price for Class II milk shall be the average of the basic (or field) prices reported to or ascertained by the market administrator to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, for milk of 4.0 percent butterfat content received during the delivery period by the Pet Milk Company at its manufacturing plant located at Mayfield, Kentucky, or the price computed pursuant to the following formula, whichever is the higher:

(1) Multiply by 4.0 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(2) Add 20 percent thereof; and

(3) Add 3½ cents for each full one-half cent that the price of nonfat dry milk solids by spray process for human consumption is above 5½ cents per pound. For the purpose of this formula the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices by spray process for human consumption, f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture during the delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for such price determination for the previous delivery period. In the event the carlot prices for such milk solids, f. o. b. manufacturing plant, are not so published, the average of the carlot prices for such milk solids delivered at Chicago, as published by the Department of Agriculture, shall be used, and the following shall be used in lieu of the computation provided for in this subpart: Add 3½ cents for each full one-half cent that the price of such nonfat dry milk solids delivered at Chicago is above 6½ cents per pound.

§ 977.51 *Basic formula price.* The basic formula price per hundredweight to be used in determining the price for Class I milk shall be the Class II price for the delivery period, or the price computed as follows, whichever is the higher:

To the average of the basic (or field) prices reported to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the butterfat differential determined pursuant to § 977.85 by 5.

§ 977.52 *Butterfat differential to handlers.* If any handler has received milk from producers during the delivery period containing more or less than 4.0 percent of butterfat, such handler shall add or deduct, per hundredweight of milk, for each one-tenth of 1 percent of butterfat above or below 4.0 percent, an amount computed as follows: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

APPLICATION OF PROVISIONS

§ 977.60 *Producer-handlers.* Sections 977.30, 977.40 through 977.52 and 997.61 through 997.87 shall not apply to a producer-handler, except that such producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

§ 977.61 *Payment for excess milk or butterfat.* In the event that a handler, after subtracting receipts of other source milk and receipts of milk, skim milk, and cream from pool plants of other handlers, has disposed of milk or butterfat in excess of the milk or butterfat which has been credited to producers as having been received from them, such handler shall pay to producers through the producer-settlement fund the value of such milk or butterfat determined as follows:

(a) Multiply any such excess volume subtracted from any class pursuant to § 977.44 (d) by the applicable class price, adjusted by the handler butterfat differential for each one-tenth of 1 percent that the computed butterfat content of such excess varies from 4.0 percent; and

(b) Multiply the pounds of any such excess butterfat, for which no excess was subtracted pursuant to § 977.44 (d), by 10 times the handler butterfat differential.

§ 977.62 *Handlers operating nonpool plants.* Sections 977.30, 977.50 through 977.52, 977.70, 977.71, 977.80 through 977.83 and 977.85 through 977.87 shall not apply to a handler in his capacity as the operator of a nonpool plant described in § 977.9 (c), except that such handler shall:

(a) On or before the 6th day after the end of each delivery period, make reports to the market administrator in such manner as he may request with respect to such handler's total receipts and utilization of skim milk and butterfat;

(b) On or before the 13th day after the end of each delivery period, pay to the market administrator for deposit in the producer-settlement fund an amount of money computed by multiplying the quantity of Class I milk disposed of in the manner described in § 977.9 (c) by the difference betwen the price of Class II milk and the price of Class I milk; and

(c) On or before the 20th day after the end of each delivery period, pay to the market administrator, as such handler's pro rata share of the expense of administration of this order, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all Class I milk and all milk, skim milk, and cream used to produce Class II products disposed of during the delivery period in the marketing area in the manner described in § 977.9 (c).

§ 977.63 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another order or a marketing agreement issued pursuant to the act, the provisions of this subpart shall not apply except the handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 977.70 *Computation of value for each handler.* For each delivery period, the market administrator shall compute the value of milk of producers received by each handler by multiplying the pounds in each class by the applicable class price adjusted by the handler butterfat differential, adding together the resulting class values, and adding to such sum the value of any excess milk or butterfat computed pursuant to § 977.61.

§ 977.71 *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight of producer milk containing 4.0 percent of butterfat as follows:

(a) Combine into one total the values, computed pursuant to § 977.70, for all handlers who made the reports prescribed by § 977.30 for such delivery period, except those in default of payments required pursuant to § 977.82 for the preceding delivery period;

(b) Subtract, if the average butterfat content of all milk received from producers represented by the values included under paragraph (a) of this section is in excess of 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, the total value of the butterfat differential applicable pursuant to § 977.85;

(c) Add an amount representing the cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the total hundredweight of milk received from producers included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payment or delinquencies in payments by handlers.

PAYMENTS

§ 977.80 *Payments to producers*—(a) *Partial payment.* On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than the applicable uniform price of the preceding delivery period, for the milk of such producer which was received by such handler during the first 15 days of the current delivery period: *Provided,* That such rate of payment to any producer who has discontinued delivery of milk during the delivery period, may be reduced by not more than 40 percent.

(b) *Final payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight, subject to the following adjustments: (1) The producer butterfat differential, (2) payment made pursuant to paragraph (a) of this section, (3) marketing service deductions, (4) deductions authorized by the producer, and (5) any error in calculating payment to such producer for the past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 977.83, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this section next following that on which such balance of payment is received from the market administrator.

§ 977.81 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 977.62, 977.82 and 977.84, and out of which he shall make all payments pursuant to §§ 977.83 and 977.84: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 977.82 *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the value of his milk, computed, pursuant to § 977.70, for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential.

§ 977.83 *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk, computed pursuant to § 977.70, for such delivery period is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 977.84 *Adjustment of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by § 977.80, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

§ 977.85 *Butterfat differential to producers.* In making payments to each producer, pursuant to § 977.80 (b), each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of 1 percent of butterfat content above or below 4.0 percent in milk received from such producer, the amount as shown in the following schedule for the butter price range in which falls the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture, for the delivery period during which such milk was received:

Butter price range (cents):	*Butterfat differential (cents)*
17.499 or less	2
17.50–22.499	2½
22.50–27.499	3
27.50–32.499	3½
32.50–37.499	4
37.50–42.499	4½
42.50–47.499	5
47.50–52.499	5½
52.50–57.499	6
57.50–62.499	6½
62.50–67.499	7
67.50–72.499	7½
72.50–77.499	8
77.50–82.499	8½
82.50–87.499	9
87.50–92.499	9½
92.50 and over	10

§ 977.86 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 977.22 (d), each handler shall pay to the market administrator, on or before the 20th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all receipts at a pool plant, during the delivery period, of milk from producers (including such handler's own production) and other source milk other than sour cream used in the production of butter. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers diverted for the account of such association to a nonpool plant.

§ 977.87 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 977.80 (b), with respect to milk received from each producer (excluding such handler's own farm production), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe; and, on or before the 20th day after the end of such delivery period, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 977.80 (b), as are authorized by such producers, and on or before the 20th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 977.88 *Termination of obligations.* The provisions of this section shall apply to any obligations under this subpart for the payment of moneys irrespective of when such obligation arose, except an obligation involved in an action instituted before May 1, 1950, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart, shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 977.90 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 977.91 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions of this subpart, or any amendment to this subpart, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this subpart or any amendment to this subpart.

§ 977.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any persons (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 977.93 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except §§ 977.32, 977.88, and 977.91 through 977.93, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 977.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 977.101 *Separability of provisions.* If any provisions of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 17th day of August 1951, to be effective on and after September 1, 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-10054; Filed, Aug. 22, 1951; 8:45 a. m.]

PART 993—HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

ORDER TERMINATING THE SUSPENSION OF CERTAIN PROVISIONS

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) hereinafter referred to as the "act" and of Marketing Agreement No. 110 and Order No. 93 (7 CFR Part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the order, an order (16 F. R. 1817) was issued on February 21, 1951, effective February 27, 1951, suspending the following

provisions: § 993.4 of the order (including the provisions of Exhibit A, which is attached to and made a part of the order); § 993.5 of the order, except to the extent that the provisions of said § 993.5 were necessary for application with respect to the liquidation by the Prune Administrative Committee, the administrative agency for operations under the order, of the 1950–51 substandard prune pool, including the disposition by the committee of substandard prunes which were held by it or for its account, at the time the suspension action became effective, and the final distribution by the committee of the net proceeds of the substandard prune pool; and implementing §§ 993.104, 993.105, and 993.201 (14 F. R. 6625, 15 F. R. 1888, and 15 F. R. 5534), except to the extent that the provisions of said §§ 993.104, 993.105, and 993.201 were necessary for application with respect to the liquidation by the aforementioned Prune Administrative Committee of the 1950–51 substandard prune pool, including the disposition by the committee of substandard prunes which were held by it, or for its account, at the time the suspension action became effective, and the final distribution by the committee of the net proceeds of the substandard prune pool.

The aforementioned suspension action was taken for the reason that it was determined that the 1950–51 season average price to producers for prunes would be in excess of the price level specified in section 2 (1) of the act. On the basis of current information, it is hereby found and determined that the estimated 1951–52 season average price to producers for prunes will not be in excess of the price level specified in section 2 (1) of the act. In these circumstances, it is hereby further found and determined that, for the 1951–52 crop year, the provisions of §§ 993.4 and 993.5 of the order, as the same are amended by a document [1] which is being issued concurrently herewith, and implementing §§ 993.104, 993.105, and 993.201, will tend to effectuate the declared policy of the act.

It is therefore ordered, That the provisions of the order (16 F. R. 1817) suspending, to the indicated extent, the provisions of §§ 993.4 and 993.5 of Marketing Agreement No. 110 and Order No. 93 (7 CFR Part 993), as the same are amended by a document which is being issued concurrently herewith, and the provisions of implementing §§ 993.104, 993.105 and 993.201 (14 F. R. 6625, 15 F. R. 1888, and 15 F. R. 5534) be, and the same hereby are, terminated three days after publication of this document in the FEDERAL REGISTER.

Notice of proposed rule making, public procedure thereon, and publication or service of this termination order 30 days prior to its effective date (see 5 U. S. C. 1001 et seq.) are impracticable, unnecessary, and contrary to the public interest in that (1) delivery by producers and dehydrators to handlers of dried prunes of the 1951 crop commences not later than August 15, 1951, and it is necessary that the provisions which are being reinstated hereby be in full force and effect as soon as practicable in order to effectuate the declared policy of the act, and (2) handlers will not require more than three days' advance notice of this action because they have already had ample advance information to the effect that the apparent market situation for the current crop year will necessitate quality and volume regulation of prunes.

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

Issued at Washington, D. C., this 17th day of August 1951.

C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51–10056; Filed, Aug. 22, 1951; 8:46 a. m.]

[1] See F. R. Doc. 10057, *infra.*

PART 993—HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

SUBPART—ORDER RELATIVE TO HANDLING

DEFINITIONS

PRUNE ADMINISTRATIVE COMMITTEE

MARKETING POLICY

GRADE AND SIZE REGULATIONS

SALABLE AND SURPLUS TONNAGE REGULATIONS

REPORTS AND BOOKS AND OTHER RECORDS

EXPENSES AND ASSESSMENTS

MISCELLANEOUS PROVISIONS

AUTHORITY: §§ 993.1 to 993.97 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

Findings and determinations—(a) *Findings upon the basis of the hearing record.* (1) The findings hereinafter set forth are supplementary and in addition to the findings and determinations which were previously made in connection with the original issuance of the marketing agreement and order (7 CFR Part 993); and all of said previous findings and determinations, except the finding as to the base period for the parity computation, are hereby ratified and confirmed except insofar as such findings and determinations may be in conflict with the findings set forth herein; (2) The amended order, as hereinafter set forth, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act; (3) Said amended order will be applicable only to persons in the respective classes of industrial and commercial activities specified or necessarily included, in the proposals upon which the amendment hearing has been held; and (4) There are no differences in the production and marketing of dried prunes in the production area covered by said amended order, which make necessary different terms applicable to different parts of such area.

(b) *Additional findings.* It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this amended order until 30 days after publication in the FEDERAL REGISTER (see 5 U. S. C. 1001 et seq.). Drying and dehydration of prune plums produced in California in 1951 has commenced, and delivery of dried prunes to handlers is expected to start not later than August 15, 1951. To effectuate the declared policy of the act, it is necessary that the amended order be made effective as soon as practicable. The provisions of the

amended order are well known to the handlers of dried prunes since the public hearing on the proposed amendments was held in March 1951, and the recommended decision and the final decision were published in the FEDERAL REGISTER on June 16, 1951 (16 F. R. 5794, 6200), and July 11, 1951 (16 F. R. 6723), respectively; and all known interested persons have been furnished copies of the regulatory provisions of said order. In view of such advance information, compliance with the provisions of the amended order by handlers will not require more than three days of advance preparation; and such period provides a reasonable time. In these circumstances, the provisions of this amended order must be made effective three days after publication in the FEDERAL REGISTER.

(c) *Determinations.* It is hereby determined that: (1) The marketing agreement, as amended, regulating the handling of dried prunes produced in California, which includes amendments upon which the aforesaid public hearing also was held, has been executed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping dried prunes covered by this amended order) who handled not less than 50 percent of the volume of such dried prunes covered by this amended order;

(2) The issuance of this amended order is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (July 1, 1950 through June 30, 1951), were engaged, within the State of California, in the production for market of prune plums for drying or dehydrating into prunes; and

(3) The issuance of this amended order is favored or approved by producers who participated in a referendum on the question of its approval and who, during the aforesaid representative period, produced for market at least two-thirds of the volume of prune plums for drying or dehydrating into prunes represented in such referendum and produced within the State of California for market.

Order relative to handling. It is, therefore, ordered, That the handling of dried prunes produced in California shall, from the effective time of this amended order, be in conformity to, and in compliance with, the terms and conditions of this amended order.

DEFINITIONS

§ 993.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary under the act.

§ 993.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 993.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 993.4 *Prunes.* "Prunes" means and includes all sun-dried or artificially dehydrated plums, of any type or variety, produced from plums grown in the State of California, except: (a) Sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver prunes; (b) plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packaging, without deterioration or spoilage, unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes", but this exception shall not apply if and when such plums are dried to the point where they are capable of being stored, without deterioration or spoilage, unrefrigerated or not otherwise artificially preserved; and (c) prunes as used in § 993.62.

§ 993.5 *Natural condition prunes.* "Natural condition prunes" means prunes which have not been processed.

§ 993.6 *Processed prunes.* "Processed prunes" means prunes which have been cleaned, or treated with water or steam: *Provided,* That prunes shall not become processed prunes at the time they are cleaned by a producer or a dehydrator in the course of preparing them for delivery to a producer, dehydrator, or handler.

§ 993.7 *Standard prunes.* "Standard prunes" means any lot of natural condition prunes meeting the applicable grade and size standards prescribed pursuant to § 993.48.

§ 993.8 *Standard processed prunes.* "Standard processed prunes" means any lot of processed prunes meeting the applicable grade and size standards prescribed pursuant to § 993.49.

§ 993.9 *Substandard prunes.* "Substandard prunes" means any lot of processed or natural condition prunes failing to meet the applicable grade and size standards prescribed pursuant to §§ 993.48 and 993.49.

§ 993.10 *Handle.* "Handle" means to receive, process, package, sell, consign, transport, or ship or in any other way to place prunes in the current of commerce (except as a carrier of prunes owned by another person), whatever may be the ultimate destination or end use of the prunes: *Provided,* That, this term shall not include: (a) The selling or delivering of prunes by a producer or dehydrator to a producer, dehydrator, or handler within the State of California; (b) the receiving of prunes by a producer or dehydrator from a producer or dehydrator; and (c) the buying, receiving, selling, or otherwise dealing by a person with prunes which have already been handled within the meaning of this definition by another person, but this exclusion shall be of no effect for the purpose of applying the applicable restrictions of § 993.49 or § 993.50 to the subsequent handling of prunes in the event a handler's prunes are excepted from restrictions in the manner specified in § 993.49 (e) (1) or § 993.50 (c).

§ 993.11 *Handler.* "Handler" means any person who handles prunes.

§ 993.12 *Dehydrator.* "Dehydrator" means any person who produces prunes by drying or dehydrating plums by means of sun-drying or artificial heat.

§ 993.13 *Producer.* "Producer" means any person who is engaged, in a proprietary capacity, in growing plums for drying or dehydrating into prunes.

§ 993.14 *Ton.* "Ton" means a short ton of 2,000 pounds.

§ 993.15 *Grade.* "Grade" means the classification of prunes for quality and condition according to the grading specifications established pursuant to the provisions of this subpart.

§ 993.16 *Size.* "Size" means the number of prunes contained in a pound or the classification of prunes into their various count groups in accordance with the usual practice of the industry.

§ 993.17 *Crop year.* "Crop year" means the 12-month period beginning August 1 of any year and ending July 31 of the following year.

§ 993.18 *Domestic.* "Domestic" means the continental United States, Alaska, Canal Zone, Hawaii, Puerto Rico, Virgin Islands, and Canada.

§ 993.19 *Proper storage.* "Proper storage" means storage of such character as will maintain prunes in the same condition as when received by the handler, except for normal and natural deterioration and shrinkage.

§ 993.20 *Part and subpart.* "Part" means the order regulating the handling of dried prunes produced in California, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of dried prunes produced in California shall be a "subpart" of such part.

PRUNE ADMINISTRATIVE COMMITTEE

§ 993.24 *Establishment of Prune Administrative Committee.* A Prune Administrative Committee (hereinafter referred to as the "committee"), consisting of 21 members, with an alternate member for each such member, is hereby established to administer the terms and provisions of this part, of whom, with their respective alternates, 14 shall represent producers and seven shall represent handlers.

§ 993.25 *Term of office.* The term of office of members, and their respective alternates, shall be two years, ending on May 31 of even numbered years, and any later date which may be necessary for the selection and qualification of their respective successors.

§ 993.26 *Selection.* Selection of members of the committee, and their respective alternates, shall be made by the Secretary, for the producer and handler groups from the nominations submitted for that purpose by the re-

spective groups, or from among other qualified persons, in the discretion of the Secretary, but such selections shall be made by the Secretary from the classes within each group and in the proportions set forth in § 993.28.

§ 993.27 *Eligibility.* Each producer member and alternate member of the committee shall be, during his term of office, a producer in the district from which he is appointed, and, if such person also handled prunes during the crop year immediately preceding that for which he is selected, at least 51 percent of the prunes so handled by him during such preceding crop year must have been produced from plums grown by him: *Provided,* That, producer-at-large members and their alternates, if they otherwise meet the foregoing eligibility requirements, may be producers in any districts. Each handler member and alternate member of the committee shall be either a handler of prunes or an employee or agent of a handler of prunes actually engaged in the handling of prunes while he is such member or alternate member.

§ 993.28 *Nominees* — (a) *Producer nominees*—(1) *Independent producers.* One nominee for member on the committee and one nominee for an alternate member shall be nominated to the Secretary by majority vote in elections in which only producers who are not members of a cooperative marketing association shall participate in each of the seven districts in the State of California which are described below in this subparagraph. The committee shall cause such elections to be held in each district in each election year prior to March 31. At such election, each such producer shall be entitled to cast only one vote in each balloting for member nominee and in each balloting for alternate member nominee and each such producer shall be permitted to vote only in a district in which he is a producer. No producer shall vote in more than one district. In case a producer is a producer in more than one district, he shall elect by written notification to the committee in which of such districts he will cast his vote for such nominees. The seven districts which are referred to above are described as follows:

District No. 1. The counties of Siskiyou, Modoc, Shasta, Trinity, Lassen, Plumas, Sierra, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Nevada, and Placer.

District No. 2. The counties of Napa, Yolo, and Solano.

District No. 3. The counties of Mendocino, Lake, Sonoma, Marin, Del Norte, and Humboldt.

District No. 4. The counties of San Francisco, San Mateo, and Santa Cruz, and all that portion of the territory in Santa Clara County west of a line described as follows: beginning at the intersection of Alviso Road and San Francisco Bay in Alviso; thence south via Alviso Road to First Street in San Jose; thence south on said First Street to San Carlos Street in San Jose; thence west on San Carlos Street to Meridian Road; thence south on Meridian Road to Dry Creek Road; thence west on Dry Creek Road to the San Jose-Los Gatos Highway; thence southwesterly on the San Jose-Los Gatos Highway to Union Avenue, also known as Ware Avenue; thence south on Union Avenue, also known as Ware Avenue, along a straight line continuing to the Santa Cruz County line.

District No. 5. All of Alameda County and that part of Santa Clara County east and south of District No. 4, extending in a southerly direction to a straight line extending from along the main portion of the Cochran Road, northeasterly to the Stanislaus County line and southwesterly to the Santa Cruz County line.

District No. 6. The counties of San Benito, Monterey, and San Luis Obispo, and all of that portion of Santa Clara County not included in Districts No. 4 and No. 5.

District No. 7. All of the counties in the State of California not included in Districts No. 1 to No. 6, inclusive.

At any time the Secretary concludes that the respective areas covered by the aforementioned seven districts, as delineated above, no longer represent approximately equal segments from the standpoints of numbers of producers of prunes or productions of prune tonnages, he may change such areas with a view to reestablishing such equalization on the basis of the existing situations.

(2) *Cooperative producers.* Prior to March 1 of each election year, the committee shall report to the Secretary the total tonnage of prunes handled by all handlers as the first handlers thereof and the total tonnage of prunes handled by cooperative marketing associations as the first handlers thereof during the crop year preceding such election year. Prior to March 15 of each election year, the Secretary shall determine and announce the number of producer member nominees and producer alternate member nominees which shall be nominated by cooperative marketing associations handling prunes on behalf of their members. Such number of nominees shall bear, as far as practicable, the same percentage compared to the total of 14 producer members and their alternates as the prune tonnage handled by cooperative marketing associations as the first handlers thereof bears to the total tonnage handled by all handlers as the first handlers thereof during the crop year preceding such election year. Prior to March 31 of each election year the cooperative marketing associations handling prunes shall nominate to the Secretary on behalf of their members such number of producer nominees and their respective alternates.

(3) *Producers-at-large.* The number of nominees and their respective alternates then required to make up the total of 14 producer member nominees and their alternates shall be nominated to the Secretary by the seven independent producer nominees nominated for members on the committee pursuant to the provisions of this section. Such nominations shall be made prior to April 15 and shall be by majority vote.

(b) *Handler nominees.* Prior to March 15 of each election year, the Secretary shall determine and announce the number of handler member nominees and handler alternate member nominees which shall be nominated by cooperative marketing associations handling prunes, on the same basis as his determination of the number of cooperative producer nominees, as set forth in paragraph (a) (2) of this section, and at the same time he shall determine and announce, for those handlers who are not cooperative marketing associations (referred to in this subpart as "independent handlers"), the number of handler member nominees and handler alternate member nominees to be nominated by large handlers, the number to be nominated by medium handlers, and the number to be nominated by small handlers. Large handlers shall be deemed to be those who during the preceding crop year individually handled as the first handlers thereof, 17 or more percent of the total tonnage handled by independent handlers as the first handlers thereof; medium handlers, those who during the preceding crop year individually handled as the first handlers thereof, 8 or more percent but less than 17 percent of the total tonnage handled by independent handlers as the first handlers thereof; and small handlers, those who during the preceding crop year individually handled as the first handlers thereof, less than 8 percent of the total tonnage handled by independent handlers as the first handlers thereof. The Secretary shall, in his discretion and insofar as it is possible to do so, apportion 40 percent of the independent handler nominees to large handlers, 20 percent of the independent handler nominees to medium handlers, and 40 percent of the independent handler nominees to small handlers, but in the event that these proportions cannot be followed, there shall be at least one independent handler member nominee and handler alternate member nominee apportioned to each of the three classes of independent handlers, and the nominees for any remaining member positions, including the respective alternates, shall be apportioned to the size class or classes as determined at a general meeting of independent handlers which shall be called for that purpose by the committee, such determination to be made on the basis of a majority vote of all independent handlers who are present at such meeting and participate in the voting, and on the further basis of one vote for each such handler in each balloting. Prior to March 31 of each election year, the cooperative marketing associations handling prunes shall nominate to the Secretary such number of handler member nominees and their respective alternates as the Secretary has determined and announced for cooperative marketing associations. Prior to March 31, at a meeting called for that purpose by the committee, each class of independent handlers shall nominate the number of handler member nominees and their respective alternates as determined and announced by the Secretary for each class, respectively. At such meeting, nominations shall be made by each class of independent handlers for nominees of that class, on the basis of a majority vote of all handler members of that class present and participating in the voting and on the further basis of one vote for each handler in each class in each balloting for nominees of that class.

§ 993.29 *Alternates.* An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, dis-

qualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

§ 993.30 *Failure to nominate.* In the event nominations for any positions on the committee are not received within the prescribed periods, the Secretary may select such members or their alternates, without regard to nominations, but each such selection shall be on the bases prescribed in § 993.28.

§ 993.31 *Acceptance.* Each person selected as a member or alternate member of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 15 days after receiving notice of his selection.

§ 993.32 *Vacancies.* In the event of any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to qualify, or, by the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated within 20 calendar days after such vacancy occurs and selected in the manner provided in this subpart, insofar as applicable.

§ 993.33 *Obligations.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member of the committee, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor or, until such successor has been selected and has qualified, in the committee.

§ 993.34 *Voting procedure and verbatim record.* Except as specifically otherwise provided in this section, all decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present. A quorum shall consist of at least 12 members of whom at least eight must be producer members and at least four must be handler members. Except in case of emergency, a minimum of five days advance notice must be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption. Any recommendation submitted to the Secretary by the committee, pursuant to the requirements of §§ 993.41 through 993.45, §§ 993.48 through 993.50, or §§ 993.59 through 993.63, shall be on the basis of an affirmative vote by at least 16 members, and the committee shall file with the Secretary, along with such recommendations to the Secretary, a verbatim record of those portions of its meetings relating to such requirements. After any proposition is voted upon by the committee, it shall report promptly to the Secretary the individual affirmative or negative vote on such proposition of each member and of each alternate member acting in the place of a member.

§ 993.35 *Compensation and expenses.* The members of the committee, and their alternates when acting as members, shall receive $10.00 per day for each day devoted to performing their duties hereunder, plus their reasonably necessary expenses.

§ 993.36 *Powers.* The committee shall have the following powers:

(a) To administer the terms and provisions of this subpart;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 993.37 *Duties.* The committee shall have, among others, the following duties:

(a) To act as intermediary between the Secretary and any producer, dehydrator, or handler;

(b) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(c) To make, subject to the prior approval of the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to prunes, which are necessary in connection with the performance of its official duties;

(d) To select, from among its members, a chairman and other appropriate officers, and to adopt such rules and regulations for the conduct of the business of the committee as it may deem advisable;

(e) To appoint or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of such persons;

(f) To submit to the Secretary not later than June 20 of each year, a budget of its anticipated expenditures and the recommended rate of assessment for the ensuing crop year, and the supporting data therefor;

(g) To submit to the Secretary such available information with respect to prunes as the committee may deem appropriate, or as the Secretary may request;

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the committee, exclusive of surplus tonnage operations, and to make such statements, together with the minutes of the meetings of said committee, available for inspection at the offices of the committee, by producers, dehydrators, and handlers;

(i) To prepare and submit to the Secretary annually, as soon as practicable after the end of each crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the financial operations of the committee with respect to the surplus tonnage for such crop year and to make such statement available at the offices of the committee, for inspection by producers, dehydrators, and handlers;

(j) To cause the books of the committee to be audited by a certified public accountant at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request. Such report shall show, among other things, the receipt and expenditure of funds. At least two copies of such audit report shall be submitted to the Secretary; a copy of each such report shall be available, at the offices of the committee, for inspection by producers, dehydrators, and handlers;

(k) To give the Secretary the same notice of meetings of the committee as is given to the members of the committee;

(l) To give producers, dehydrators, and handlers reasonable advance notice of meetings of the committee, and to maintain all such meetings open to such persons;

(m) To investigate compliance with the provisions of this subpart and with any rules and regulations established pursuant to such provisions; and

(n) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the act and the efficient administration of this subpart.

MARKETING POLICY

§ 993.41 *Report of marketing policy.* Prior to the beginning of each crop year, the committee shall prepare and submit to the Secretary a report setting forth its marketing policy for the regulation of the handling of prunes in such crop year, pursuant to §§ 993.48 through 993.63. Such report shall include the data and information used by the committee in the formulation of such marketing policy. In developing the marketing policy, the committee shall give consideration to the following factors:

(a) The estimated tonnage of prunes from preceding crop years held by handlers;

(b) The estimated tonnage of prunes from preceding crop years held by producers and dehydrators;

(c) The estimated production of prunes in such crop year;

(d) An appraisal of the quality and size of prunes of the crop to be produced in such crop year;

(e) The estimated tonnage of prunes marketed in recent crop years segregated by countries as to foreign commerce and segregated by uses as to domestic commerce;

(f) The current prices being received for prunes by producers, dehydrators, and handlers;

(g) The trend and level of consumer income;

(h) The estimated probable market requirements for prunes in such crop year segregated by countries as to foreign commerce and segregated by uses as to domestic commerce; and

(i) Such other factors as may have a bearing on the marketing of prunes.

§ 993.42 *Policy meeting.* The committee shall hold a meeting for the purpose of formulating and adopting the marketing policy for any crop year not later than June 15 preceding the beginning of such crop year.

§ 993.43 *Time of submission.* The marketing policy report for any crop year shall be submitted to the Secretary not later than June 20 preceding the beginning of such crop year.

§ 993.44 *Modifications or changes.* In the event the committee subsequently determines that such marketing policy should be modified or changed by reason of change in economic or other conditions, it shall make such modification or change in the manner provided for above for the original formulation of a marketing policy, insofar as applicable, and shall submit promptly a report of such modified or changed marketing policy to the Secretary, along with the data which it considered in connection with the making of such modification or change.

§ 993.45 *Notice.* The committee shall give reasonable notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to producers, dehydrators, and handlers of the contents of each marketing policy report submitted to the Secretary and each report modifying or changing a marketing policy. Copies of all such reports shall be maintained in the offices of the committee where they shall be available for examination by producers, dehydrators, and handlers.

GRADE AND SIZE REGULATIONS

§ 993.48 *Receiving of natural condition prunes by handlers*—(a) *General.* In order to effectuate the declared policy of the act, no handler shall receive prunes from producers or dehydrators, except in accordance with the terms and conditions with respect to grades and sizes set forth in this section: *Provided,* That no handler shall receive any prunes (either as standard prunes or as substandard prunes) from producers or dehydrators, unless such prunes have been properly dried and cured in original natural condition, without the addition of water, and free from active insect infestation, so that they are capable of being received, stored, and packed without deterioration or spoilage. Any high moisture content prunes, as described in the exception in § 993.4 (b), in the possession of a handler, shall be held separate and apart from any surplus prunes (including both standard and substandard prunes) held by him. If, and so long as, a handler commingles his salable prunes with any surplus prunes, this prohibition as to storage shall apply to the entire mass. In the event such high moisture content prunes are dried or dehydrated to a point where they are capable of being stored, without deterioration or spoilage, unrefrigerated or not otherwise artificially preserved, they shall be deemed, at that time, to have been received by such handler as prunes, and to be subject to all of the conditions and restrictions of this subpart.

(b) *Initial regulation.* Effective as of the effective time of this section and, continuing until such regulation is superseded by other regulations prescribed by the Secretary, no handler shall receive prunes from producers or dehydrators, other than as substandard prunes, unless they meet the minimum standards for natural condition prunes as set forth in § 993.97 (Exhibit A).

(c) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in paragraph (b) of this section, should be superseded by other minimum standards as to grades and sizes, it shall submit its recommendation to the Secretary, together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of natural condition prunes as set forth in § 993.97 (Exhibit A), and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulations issued by the Secretary shall subsequently be modified, suspended, or terminated, in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recommendation therefor to the Secretary, shall, in each instance, submit to him the information and data on the basis of which such recommendation is made. The committee shall give prompt notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary. Such notice of each regulation issued shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

(d) *Inspection.* Each handler shall, at his own expense, cause an inspection to be made of prunes tendered to him by any producer or dehydrator. Prior to accepting any such tender of prunes as prunes meeting the applicable minimum standards for grades and sizes, each such handler shall obtain a certificate that the prunes meet the aforementioned requirements for standard prunes as established pursuant to the provisions of paragraphs (b) or (c) of this section, and said handler shall submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, No. 1 Drumm Street, San Francisco, California. The Secretary may designate another inspection agency in the event the services of the Dried Fruit Association of California prove unsatisfactory. Any prunes so certified as meeting the applicable requirements shall be known and referred to as standard prunes.

(e) *Substandard natural condition prunes*—(1) *Producer's or dehydrator's options.* Any natural condition prunes tendered to a handler by a producer or dehydrator which fail to meet the applicable minimum standards as to grades and sizes, may: (i) At the producer's or dehydrator's option, be returned to such producer or dehydrator for sorting; or, (ii) by agreement between such producer and handler or dehydrator and handler, be received pursuant to the provisions of subparagraph (2) of this paragraph; or, (iii) be turned over to the handler unsorted to be held by him, as substandard natural condition prunes, for the account of the committee. Any such substandard prunes, except as otherwise specifically provided, shall be treated the same as and be subject to the same provisions respecting surplus prunes, as contained in §§ 993.59 through 993.63, and, except those referred to in subparagraph (2) of this paragraph, shall be held by a handler separate and apart from any standard prunes held by him.

(2) *Equivalent quantity basis.* In the event a producer or dehydrator should elect to arrange with a handler for the receiving of substandard prunes tendered by him to such handler for sorting or disposing of such prunes unsorted in conformity with the provisions of this subpart, the inspection agency designated to make inspections of prunes shall issue, at the handler's expense, a certificate of appraisal on such prunes so tendered, which shall show the percentage thereof comprising offgrade prunes necessary to be removed therefrom for the remainder to be standard prunes. A quantity of prunes equivalent to the weight of such offgrade prunes represented by the application of such percentage to the total tonnage so appraised and certified shall be treated as substandard prunes and held as such for the account of the committee: *Provided,*

That any prunes so treated as substandard prunes shall be of such comparable size as may be established by the committee through issuance of rules and regulations. No certificate of inspection on such substandard natural condition prunes so tendered shall be required pursuant to this section after a certificate of appraisal has been issued applicable to such prunes.

§ 993.49 *Regulation of the handling of prunes subsequent to their receipt by handlers*—(a) *General.* In order to effectuate the declared policy of the act, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes, except in accordance with the terms and conditions of this section.

(b) *Initial regulation.* Effective as of the effective time of this section, and continuing until such regulation is superseded by other regulations prescribed by the Secretary, except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes, which fail to meet the applicable minimum standards set forth in § 993.97 (Exhibit A) for standard prunes or standard processed prunes.

(c) *Superseding regulation.* In case the committee should recommend to the Secretary that the initial minimum standards as to grade, as provided for in paragraph (b) of this section, should be superseded by other minimum standards as to grades and sizes, it shall submit its recommendation to the Secretary together with the data and information upon which it acted in making such recommendation, including information as to factors affecting the supply of, and demand for, prunes by grades and sizes, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any such superseding regulation, insofar as it applies to grades, shall not be below the applicable minimum standards for grades of standard prunes or standard processed prunes, as set forth in § 993.97 (Exhibit A), and any such minimum standards for grades shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulation issued by the Secretary may subsequently be modified, suspended, or terminated in case he finds that the pertinent facts and circumstances so warrant, and the committee, in submitting any recommendation therefor to the Secretary shall, in each instance, submit to him the information and data on the basis of which such recommendation is made: *Provided,* That, at all times, the regulation shall be comparable so far as practicable, to the then current regulation in effect with respect to the receiving of natural condition prunes by handlers from producers or dehydrators. The committee shall give prompt notice through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary. Such notice of each regulation issued shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

(d) *Inspection.* Each handler shall, at his own expense, before shipping or otherwise making final disposition of prunes, unless they are specifically excepted in this section, cause an inspection to be made of such prunes to determine whether they meet the then applicable grade and size standards for standard prunes or standard processed prunes. Each such handler shall not ship or otherwise make final disposition of such prunes, for any use unless they are specifically excepted in this section, if they do not meet such minimum standards. Such handler shall obtain a certificate that such prunes meet the aforementioned minimum standards and such handler shall submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, No. 1 Drumm Street, San Francisco, California. The Secretary may designate another inspection agency in the event the services of the Dried Fruit Association of California prove unsatisfactory.

(e) *Exceptions to restrictions*—(1) *Inter-plant and inter-handler transfers.* Notwithstanding the restrictions contained in paragraphs (b) or (c) of this section, any handler may transfer prunes from one plant owned by him to another plant owned by him within the State of California without having any inspection made as provided for in paragraph (d) of this section, and any handler may ship prunes from his plant to another handler's plant within the State of California without having an inspection made as provided for in paragraph (d) of this section. A report of such inter-handler transfer shall be made promptly by the transferring handler to the committee. The receiving handler shall, before shipping or otherwise making final disposition of such prunes, comply with the requirements of this section.

(2) *Defective prunes accumulated from standard prunes and prunes received by a handler for his own account which fail to meet the quality standards for disposition.* Any defective prunes which may be accumulated by a handler by removing them from his standard prunes and any prunes received by a handler for his own account which fail to meet the quality standards for the disposition of prunes, may be disposed of, or marketed for disposition, as animal feed, pitted prunes, or as other prune products in which they lose their form and character as prunes by conversion prior to consumption: *Provided,* That any such prunes which are disposed of, or marketed for disposition, for human consumption shall meet those minimum standards prescribed in § 993.97 (Exhibit A) as relate to the defects of mold, imbedded dirt, insect infestation, and decay. The committee shall issue any such rules and regulations as may be necessary to insure such uses. Each handler shall, at his own expense, before shipping or otherwise making final disposition of prunes under this subparagraph, cause an inspection to be made of such prunes by the inspection agency. Such handler shall obtain from the inspection agency a certificate that such prunes meet the applicable conditions contained in this subparagraph, and submit it, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Otherwise, such prunes may be shipped or disposed of for the purposes specified in this subparagraph without regard to the restrictions contained in paragraphs (b), (c), and (d) of this section.

§ 993.50 *Regulation of the handling of prunes during any crop year when the estimated seasonal average price is in excess of parity*—(a) *Determination.* If the Secretary should find that the estimated seasonal average price for prunes for any crop year will be in excess of the price level contemplated by the provisions of section 2 (1) of the act, he shall issue an order in which such finding is set forth, and, in such order, he may provide that, for such crop year, the handling of prunes shall be in accordance with the provisions set forth in this section.

(b) *Receiving of prunes by handlers.* In lieu of the provisions set forth in § 993.48, a handler may receive any tender of prunes from a producer or dehydrator: *Provided,* That such prunes have been properly dried and cured in original natural condition, without the addition of water, and free from active insect infestation, so that they are capable of being received, stored, and packed without deterioration or spoilage. For the assistance of the committee in its supervision of operations under this section, each handler shall, at his own expense, cause an inspection to be made by the inspection agency for the purpose of ascertaining the net weight of the delivery and the percentage of defective prunes in such delivery which is in excess of the maximum tolerances specified in § 993.97 (Exhibit A, paragraph C of subdivision I), and whether the prunes in the delivery meet the requirements of paragraph D of said subdivision I. In the case of each such inspection, the handler shall obtain from the inspection agency a certificate showing the results of the inspection including the percentage of such excess by defects or groups of defects, as the committee may require, and he shall submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee.

(c) *Disposition of prunes by handlers.* In lieu of the requirements set forth in § 993.49, no handler shall ship or otherwise make final disposition of prunes (regardless of whether natural condition or processed prunes), for human consumption as prunes, which fail to meet

the applicable minimum standards set forth in § 993.97 (Exhibit A) for natural condition prunes or processed prunes, as the case may be. Also, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes for use in the manufacture of any prune product for human consumption as food, which fail to meet the applicable minimum standards set forth in § 993.97 (Exhibit A) for natural condition prunes or processed prunes, as the case may be, which relate to the defects of mold, insect infestation, imbedded dirt, and decay. Any handler may ship or otherwise make final disposition of any natural condition prunes or of any processed prunes, as the case may be, for any use other than those referred to in the two preceding sentences. Such disposition without regard to the quality of prunes shall include, but is not limited to, disposition for animal feed, botanicals, and distillation. Each handler shall, at his own expense, before shipping or otherwise making final disposition of prunes, cause an inspection to be made by the inspection agency to determine whether they meet the applicable grade standards, as set forth above in this paragraph, and he shall obtain from the inspection agency a certificate that such prunes meet the aforementioned applicable minimum standards and submit such certificate, or cause it to be submitted, together with such other instruments and records as the committee may require, to the committee. Nothwithstanding the aforesaid restrictions, any handler may transfer prunes from one plant owned by him to another plant owned by him within the State of California, and any handler may ship prunes from his plant to another handler's plant within the State of California, without having such inspection made and certificate issued. A report of each interhandler transfer shall be made promptly by the transferring handler to the committee, and the receiving handler shall, before shipping or otherwise making final disposition of such prunes, comply with the requirements of this paragraph. The committee is hereby authorized to exercise such supervision as may be reasonably necessary to insure that prunes are disposed of for the respective uses for which they were intended, and that the prunes used for each particular purpose meet the applicable minimum grade standards prescribed in this paragraph.

(d) *Inspection agency.* The inspection agency referred to in this section shall be the same as the inspection agency which is provided for in §§ 993.48 and 993.49.

(e) *Assessments.* In lieu of the payment of assessments pursuant to the computation method prescribed in § 993.81 (a), each handler shall pay to the committee, upon demand, with respect to all prunes received by him as the first handler thereof, his pro rata share of such expenses which the Secretary finds will be incurred pursuant to the provisions of § 993.80 by the committee during such crop year. Also, in such an event, each handler's pro rata share of such expenses shall be equal to the ratio between the total tonnage received by him as the first handler thereof during such crop year and the total tonnage received by all handlers as the first handlers thereof during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handlers on the basis of a specified rate per ton. At any time during or after a crop year the Secretary may increase the rate of assessment to apply to all prunes received by handlers as the first handlers thereof during such crop year to obtain sufficient funds to cover any finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. The Secretary shall reduce the assessment rate applicable to all such tonnage during the particular crop year if he finds that when thus reduced it will provide funds sufficient to enable the committee properly to perform its authorized functions. In all other respects, the provisions of §§ 993.80 through 993.82 shall remain in full force and effect.

(f) *Effective provisions.* In any crop year while the provisions of this section are in effect, the provisions of §§ 993.1 through 993.45, §§ 993.71 through 993.77 and §§ 993.84 through 993.93 shall remain in full force and effect, except to the extent that they may be in conflict with the provisions of this section or of the act.

SALABLE AND SURPLUS TONNAGE REGULATIONS

§ 993.59 *Method of establishing salable and surplus percentages.* After considering all available information and factors used in formulating the marketing policy, the committee, prior to July 15 in any crop year, shall recommend to the Secretary the establishment of a salable percentage and a surplus percentage during the crop year for which the marketing policy has been developed. Whenever the Secretary finds from the recommendation and information submitted by the committee, or from other available information, that to establish a salable percentage and surplus percentage of prunes for any crop year would tend to effectuate the declared policy of the act, he shall so establish such percentages. The total of the salable and surplus percentages fixed each crop year shall equal 100 percent. The salable and surplus percentages fixed for any crop year shall remain in full force and effect throughout the remainder of that crop year and during the following crop year until such percentages are fixed for the following crop year. The committee shall give prompt notice, through newspapers having general circulation in the area and may give such notice through other channels, if the committee deems it desirable, to handlers, dehydrators, and producers of each recommendation submitted by it to the Secretary and of any such percentages made effective by the Secretary. Such notice of the percentages made effective by the Secretary shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

§ 993.60 *Salable tonnage.* The salable tonnage of prunes of a handler shall be the sum of the salable tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The salable tonnage portion of prunes delivered to the handler by an individual producer or dehydrator shall be the tonnage resulting from the application of the salable percentage to the quantity of prunes (including standard and substandard prunes) so delivered, plus any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the salable tonnage portion so computed exceeds the quantity of standard prunes delivered to the handler by the individual producer or dehydrator, it shall be reduced to the quantity of standard prunes so delivered. The handler may sell such salable tonnage in any manner he deems advisable subject to the applicable requirements specified in §§ 993.48 and 993.49. No handler shall handle any quantity of prunes in excess of his salable tonnage, except such prunes as may be obtained from surplus tonnage as specified in § 993.63, and except as provided in paragraph (g) of § 993.61. In no event, however, shall a handler be prevented from handling salable tonnage acquired by him from another handler who has received such tonnage from producers, dehydrators, or other handlers in accordance with all the provisions of this subpart.

§ 993.61 *Surplus tonnage.* (a) *Computation.* The surplus tonnage of prunes of a handler shall be the sum of the surplus tonnage portions of the prunes delivered to the handler by individual producers and dehydrators. The surplus tonnage portion of prunes delivered to the handler by an individual producer or dehydrator shall be the tonnage resulting from the application of the surplus percentage to the quantity of prunes (including standard and substandard prunes) so delivered, less any tonnage of standard prunes delivered by such producer or dehydrator to the handler and covered by a diversion certificate; however, if the surplus tonnage portion so computed is less than the quantity of substandard prunes delivered to the handler by the individual producer or dehydrator, it shall be increased to the quantity of substandard prunes so delivered. The committee shall authorize and permit a nonprofit cooperative agricultural marketing association, which has contractual authority to so pool the tonnage of its members, to concentrate the tonnage of its producer members before applying the surplus tonnage provision of this subpart.

(b) *Holding and delivery.* Each handler shall hold for the committee in proper storage, all surplus tonnage received by him until relieved of such obligation by the committee. The committee may, at any time, require a handler to deliver to it, or to anyone designated by it, at such handler's warehouse or at such other place as the prunes may be stored by the handler, surplus tonnage held by him. The committee may require that such delivery consist of natural condition prunes or it may arrange for such delivery to consist of processed prunes.

(c) *Substandard surplus prunes.* Substandard prunes, except defective prunes referred to in § 993.49 (e) (2), shall be held separate from other prunes held by any handler. The committee shall dispose of substandard prunes as expeditiously as it is practicable to do so, in any manner designated by the committee which is not contrary to any provisions of this subpart for the disposition of substandard prunes.

(d) *Storage facilities.* The committee may rent and operate, or arrange for the use of, facilities for storage and handling of surplus tonnage.

(e) *Exchange.* The committee may establish methods and procedures, including compensating payments, for the exchange by handlers of salable tonnage prunes for surplus standard prunes held by or for the committee, of the various grades and sizes of prunes: *Provided, however,* That no such exchange shall be permitted of substandard prunes. Such transfers shall be on a negotiated basis.

(f) *Payment for services.* Handlers shall be paid for necessary services rendered by them in connection with surplus tonnage, including, but not limited to, receiving, storing, grading, and fumigating, in accordance with a schedule of payments established by the committee and approved by the Secretary. If any handler, prior to December 1 of the crop year, demands removal of such surplus tonnage by the committee, such handler automatically waives payment for any and all charges that may have accrued for storing such surplus tonnage, including in and out charges. When any demand for removal is made, the committee shall remove such surplus tonnage from said handler's possession as expeditiously as practicable, and in any event within 30 days following receipt of written notice.

(g) *Deferment of obligation.* The committee may defer, upon the written request of any handler and for good and sufficient cause, the fulfilling by such handler of his surplus tonnage obligation for a specified period ending not later than November 15 of the then current crop year: *Provided,* That no handler shall dispose of any tonnage of standard prunes during such deferment period in excess of the tonnage he is authorized to handle as specified in § 993.60 plus the tonnage for which such handler holds purchase contracts with producers and dehydrators. As a condition to the granting of any such deferment, the committee shall require the handler to obtain and file with it a written undertaking that by the end of the deferment period he will have fully satisfied his obligation with respect to the holding or control by him of the surplus tonnage applicable to his receipts of prunes from producers and dehydrators. Such undertaking shall be secured by a bond or bonds to be filed with, and acceptable to, the committee, with surety or sureties satisfactory to the committee, running in favor of the committee and the Secretary, and for an amount computed on the basis of the then current market value of the prunes in the quantity for which the deferment is granted. The cost of such bond shall be borne by the handler filing same. Any sums collected through default of a handler on his bond shall, after reimbursement of the committee for any expenses incurred by it in effecting collection, be deposited with the funds obtained by it from the disposition of the surplus tonnage and disbursed by it to persons as set forth in § 993.63 (i) (2). In addition to the foregoing, the committee may establish other reasonable terms and conditions upon which such deferments may be granted.

§ 993.62 *Diversion privileges.* The word "prunes" as used in this section means plums of a variety used in the production of prunes. No producer shall be required to divert all or any portion of these prunes. Any producer may, if he chooses, participate to the extent set forth in this section, by diverting all or a portion of his production of prunes to nonhuman uses or may divert such prunes by leaving them unharvested, or may divert them to such other uses as may be approved by the committee, subject to the following terms and conditions:

(a) The producer shall first make application in writing to the committee for permission to divert prunes, disclosing in such application whether such prunes are to be diverted to nonhuman use, whether they are to be left unharvested, or to what other use they are to be diverted, and describing in detail the location of such prunes or portion thereof.

(b) If the committee approves such application, it shall estimate the amount of the production to be so diverted, on a dried weight basis, and shall advise the applicant, in writing, of its estimate of such dried production and of its approval of the application to divert, subject to satisfactory proof by the applicant that such prunes have actually been diverted as stated in his application.

(c) After receipt by the committee of satisfactory proof of such diversion, the committee shall issue to the applicant and made out in his name, a certificate of salable tonnage or diversion certificate for the dried weight of such prunes equal to the salable percentage as applied to the estimated dried production.

(d) Such diversion certificate shall not be transferable to another producer, or a handler, or any other person, except with the approval of the committee, evidenced by its endorsement of approval on the certificate.

(e) A certificate of salable tonnage or diversion certificate, so issued, shall entitle a producer to deliver to a handler, and a handler to receive, the specified dried weight of prunes free from all surplus set aside requirements in addition to the portion of all of such producer's delivery which would otherwise constitute salable tonnage, and shall entitle a handler, upon presentation of such certificate to the committee to satisfy his surplus tonnage requirements to the extent of the dried weight of prunes specified in such certificate.

(f) Any producer who diverts prunes pursuant to the provisions of this section and any other holder of diversion certificate, shall not be entitled to participate in the proceeds of the surplus tonnage for any prunes so diverted.

(g) Prior to the delivery of the diversion certificate to the producer, he shall pay to the committee the reasonable expense assessed by the committee for examining, estimating, weighing, or otherwise supervising the diversion.

§ 993.63 *Disposition of surplus tonnage*—(a) *Sales to United States Government and foreign governments.* (1) The committee is authorized to sell direct, or to sell to handlers for resale, surplus tonnage to the United States Government or to any agency thereof (including, but not limited to, sales for domestic or foreign relief purposes, school lunch and institutional feeding, or for foreign economic assistance), or to any foreign government. Such sales may be at negotiated prices with adequate consideration to probable processing costs.

(2) The committee shall file with the Secretary, by telegram or air mail letter, seven calendar days prior to making any offer to sell to any foreign government, surplus prunes pursuant to this paragraph, complete information with respect thereto, including the basis therefor. The Secretary shall have the right to disapprove, within such seven-day period, the making of such an offer or any term or condition thereof.

(b) *Sales for export*—(1) *Countries included in estimate of salable percentage.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the expansion of foreign markets in countries which were considered in estimating the salable percentage to a greater extent than was anticipated at the time of such estimate, the committee may offer to sell, and sell, surplus standard prunes to handlers for sale into, and for use in, such foreign channels in such quantities as are necessary to meet the increased demand. The quantity of prunes included in any offer to sell to individual handlers shall be in the proportion that the respective handler's sales in foreign channels bears to sales in such channels by all handlers. No such sale shall be made by the committee at a price below that which reflects the average price received by producers for salable tonnage during the then current crop year to a date as near as practicable to the date of the offer, as shown by the reports required to be filed under the provisions of § 993.73, plus accrued charges for receiving and storing of surplus tonnage.

(2) *Countries not included in estimate of salable percentage.* The committee may offer to sell, and sell, to any handler, a quantity of surplus standard prunes for export to any foreign country, which country was not included in the estimates upon which the salable percentage was based, in the event of proof of demand for such quantity for such country. Such sale may be made at a negotiated price. The committee shall require proof that any standard prunes so sold were used for the purpose for which they were sold.

(3) *Notice to Secretary of proposed sales for export.* The committee shall file with the Secretary, by telegram or

air mail letter, seven calendar days prior to making any offer to sell under either subparagraph (1) or subparagraph (2), surplus standard prunes pursuant to this paragraph, complete information with respect thereto, including the basis for such proposal. The Secretary shall have the right to disapprove, within such seven-day period, the making of such an offer or any term or condition thereof.

(c) *Sales for animal feed and certain manufacturing uses.* The committee may sell any surplus prunes for animal feed, botanicals, distillation, or for any manufacturing uses which were not provided for in estimating the salable quantity of standard prunes for the then current crop year. Such sales may be made at negotiated prices. The committee is hereby authorized to exercise such supervision as may be reasonably necessary to insure that such prunes are disposed of for the respective uses for which they are sold.

(d) *Sales to handlers*—(1) *Authorization under specified supply conditions.* If the committee finds that total contracted sales by all handlers during the crop year exceeds 80 percent of the total salable tonnage received by all handlers plus 80 percent of the estimated tonnage held unsold by producers and dehydrators which would become salable tonnage; or, if the committee finds that more than 20 percent of the uncontracted salable tonnage is being held so tightly by relatively few handlers, dehydrators, or producers as seriously to restrict commerce in prunes, and if 75 percent of all handlers have made a written request therefor and such requesting handlers have purchased over 65 percent of the salable tonnage purchased from producers and dehydrators, the committee may, in either event, sell to handlers standard prunes from the surplus tonnage for use as salable tonnage, subject to the additional conditions set forth in subparagraphs (2), (3), (4), (5) and (6) of this paragraph.

(2) *Authorized commencement date.* No such sale shall be made prior to December 15 of the crop year.

(3) *Quantity limitation.* No single sales offer of surplus tonnage to handlers shall exceed 20 percent of the original estimated salable tonnage.

(4) *Prices.* If any such sale is made for manufacturing purposes in which the prunes will lose their form and character as prunes by conversion prior to consumption, it may be made by the committee at a negotiated price; otherwise, such sales shall not be made by the committee at a price below that which reflects the average price received by producers for salable tonnage during the then current crop year to a date as near as practicable to the date of the offer, as shown by the reports required to be filed under the provisions of § 993.73, plus accrued charges for receiving and storing of surplus tonnage.

(5) *Pro rata shares and termination of offers.* In any offer by the committee to sell surplus tonnage to handlers pursuant to this paragraph, each handler shall be given the first opportunity to purchase his share of the offer, which share shall be determined as the same proportion that the respective surplus tonnage held by him is of the surplus tonnage held by all handlers. In the event that any handler declines or fails to purchase any or all of his share of any such offer, the remaining portion thereof shall be re-offered by the committee to all handlers who purchased all of their respective shares of such offer, in proportion to their respective shares. Any balance remaining unsold after such re-offer shall be withdrawn from the particular offer. Any offer outstanding as of July 5 of any crop year shall be withdrawn and the committee shall not make any further offer to sell surplus tonnage to handlers after that date, except that if the committee determines, with the approval of the Secretary, that a major change in conditions has occurred, such as the involvement of the United States in war or a crop failure in the following year, or any other significant development, which indicates a shortage of supply, the said July 5 limitation shall no longer apply.

(6) *Notice to Secretary of proposed sales to handlers.* The committee shall file with the Secretary, by telegram or air mail letter, seven calendar days prior to making any offer to sell surplus prunes pursuant to this paragraph, complete information with respect thereto, including the basis therefor. The Secretary shall have the right to disapprove, within such seven-day period, the making of such an offer or any term or condition thereof.

(e) *Sales of standard prunes for manufacturing purposes*—(1) *Manufacturing outlets included in estimate of salable percentage.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the expansion of manufacturing outlets, which outlets were provided for in estimating the salable percentage, to a greater extent than was anticipated at the time of estimating the salable percentage, the committee may offer to sell, and sell, surplus standard prunes to handlers for resale or use for such manufacturing purposes in which such prunes will lose their form and character as prunes by conversion prior to consumption, in such quantities as are necessary to meet the increased demand. The quantity of prunes offered to individual handlers to meet such deficiency shall be in the proportion that the respective handler's sales or uses for manufacturing bears to sales or uses for manufacturing by all handlers. No such sale shall be made by the committee at a price below that which reflects the average price received by producers for salable tonnage during the then current crop year to a date as near as practicable to the date of the offer, as shown by the reports required to be filed under the provisions of § 993.73, plus accrued charges for receiving and storing of surplus tonnage.

(2) *Manufacturing outlets not included in estimate of salable percentage.* The committee may offer to sell, and sell to any handler, a quantity of surplus standard prunes for any manufacturing use, which manufacturing use was not included in the estimate upon which the salable percentage was based, in the event of proof of demand for such quantity for such purpose. Such sale may be made at a negotiated price. The committee shall require proof that any standard prunes so sold were used for the purpose for which they were sold.

(3) *Notice to Secretary of proposed sales of standard prunes for manufacturing purposes.* The committee shall file with the Secretary, by telegram or air mail letter, seven calendar days prior to making any offer to sell under either subparagraph (1) or subparagraph (2), surplus standard prunes to handlers pursuant to this paragraph, complete information with respect thereto including the basis for such proposal. The Secretary shall have the right to disapprove, within such seven-day period, the making of such offer or any term or condition thereof.

(f) *Sales of substandard prunes for animal feed and for manufacturing purposes.* The committee may sell direct, or sell to handlers for resale, substandard prunes for animal feed, and for any manufacturing purpose in which such prunes will lose their form and character as prunes by conversion prior to consumption: *Provided,* That any such prunes which are sold for disposition for manufacturing purposes for human consumption, either directly to handlers, or for resale by handlers, shall, at the time of such disposition or use, meet those minimum standards prescribed in § 993.97 (Exhibit A) as relate to the defects of mold, imbedded dirt, insect infestation, and decay; and any such prunes so sold by the committee to a person who is not a handler shall meet those quality standards at the time of disposition by the committee: *And provided, further,* That no such sales for manufacturing purposes for human consumption shall be made while standard prunes are available in the surplus tonnage. The committee is hereby authorized to exercise such supervision as may be reasonably necessary to insure that such prunes are disposed of for the respective uses for which they were sold. Such sales may be made at negotiated prices.

(g) *Donations of surplus prunes.* The committee may donate limited quantities of surplus prunes for use in research or promotional activities.

(h) *Unsold surplus tonnage.* The committee shall endeavor to sell all prunes in the surplus tonnage at a rate so as to achieve, as nearly as may be practicable, the complete disposition of the surplus tonnage not later than July 31 of the crop year. Any surplus tonnage remaining unsold as of July 31 shall be disposed of as soon as practicable for animal feed, distillation, or in any other outlets which are not competitive with the sale of prunes in normal marketing channels, not otherwise provided for in this paragraph, unless determination with respect to a shortage of supply has been made as provided for in paragraph (d) (5) of this section. The committee may dispose of unsold surplus prunes after July 31 at negotiated prices.

(i) *Proceeds of sales of surplus tonnage*—(1) *Charges against proceeds.* Expenses incurred by the committee for the receiving, handling, holding, or dis-

posing of any quantity of surplus tonnage shall be charged against the proceeds of sales of surplus tonnage.

(2) *Distribution of net proceeds.* Net proceeds from the disposition of surplus tonnage shall be distributed by the committee either directly, or through handlers as agents of the committee, under safeguards to be established by the committee, to persons in proportion to their contributions thereto, or to assignees of such interests, with appropriate grade and size differentials as established by the committee. Progress payments may be made by the committee in the same manner, as sufficient funds accumulate. Distribution of the proceeds in connection with the surplus tonnage contributed by a nonprofit cooperative agricultural marketing association which has authority to market prunes of its members and to allocate the proceeds therefrom to such members shall be made to such association, if it so requests. Prior to making any such distribution, the committee shall submit to the Secretary a report including all pertinent details with respect thereto.

(j) *Prohibition against the hypothecation of surplus.* In no event shall the committee hypothecate surplus tonnage.

REPORTS AND BOOKS AND OTHER RECORDS

§ 993.71 *Confidential information.* All reports and records furnished or submitted by handlers to the committee which include data or information constituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received shall be received by, and at all times kept in the custody and under the control of one or more employees of the committee, who shall disclose such information to no person except the Secretary. Notwithstanding the above provisions of this section, information may be disclosed to the committee when reasonably necessary to enable the committee to carry out its functions under this subpart.

§ 993.72 *Reports of acquisitions, sales, uses, and shipments.* Each handler shall file such reports of his acquisitions, sales, uses, and shipments of prunes, as may be requested by the committee.

§ 993.73 *Reports of prices.* Each handler shall file such price reports as may be requested by the committee, showing the weighted average price paid by such handler to producers and dehydrators for each size of prunes and the quantity purchased at each such price, to enable the committee to determine the average price received by producers for the purposes set forth in paragraphs (b), (d) and (e) of § 993.63.

§ 993.74 *Reports of surplus tonnage.* Each handler shall file with the committee such reports of the total substandard prunes and other surplus tonnage by grade and size classifications thereof, held in his warehouses or under his control and the location thereof, as may be requested by the committee.

§ 993.75 *Other reports.* Upon the request of the committee, each handler shall furnish such other reports and information as are needed to enable the committee to perform its functions under this subpart.

§ 993.76 *Records.* Each handler shall maintain such records of prunes received, held, and disposed of by him as are prescribed by the committee and needed by it to perform its functions under this subpart.

§ 993.77 *Verification of reports.* For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this subpart, the committee, through its duly authorized agents, shall have access to any premises where prunes may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any prunes so held by such handler and any and all records of such handler with respect to the holding or disposition of all prunes which may be held or which may have been disposed of by him.

EXPENSES AND ASSESSMENTS

§ 993.80 *Expenses.* The committee is authorized to incur such expenses (exclusive of expenses for the receiving, handling, holding, or disposing of any quantity of surplus tonnage) as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the committee as to these expenses and the recommended rate of assessment for each such crop year, together with all data supporting such recommendations, shall be filed with the Secretary not later than June 20 preceding the crop year in connection with which such recommendations are made.

§ 993.81 *Assessments* — (a) *Requirement for payment and rate of assessment.* The funds to cover the expenses of the committee (exclusive of expenses for the receiving, handling, holding, or disposing of any quantity of surplus tonnage) shall be acquired by levying assessments. Each handler shall pay to the committee, upon demand, with respect to all salable tonnage prunes handled by him as the first handler thereof and on all prunes sold to him from surplus tonnage for resale to other than Federal governmental agencies, his pro rata share of such expenses which the Secretary finds will be incurred as aforesaid, by the committee during each crop year. Each handler's pro rata share of such expenses shall be equal to the ratio between the total salable tonnage handled by him as the first handler thereof plus the tonnage sold to him from surplus tonnage for resale to other than Federal governmental agencies, during the applicable crop year, and the total salable tonnage prunes handled by all handlers as the first handlers thereof plus tonnage sold to such handlers from surplus tonnage for resale to other than Federal governmental agencies, during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handlers on the basis of a specified rate per ton. At any time during or after a crop year the Secretary may increase the rate of assessment to apply to all salable tonnage prunes handled by handlers as the first handlers thereof and on all tonnage sold to handlers from surplus tonnage for resale to others than Federal governmental agencies during such crop year to obtain sufficient funds to cover any finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. The Secretary shall reduce the assessment rate applicable to all such tonnage during the particular crop year if he finds that when thus reduced it will provide funds sufficient to enable the committee properly to perform its functions under this subpart.

(b) *Advance payments.* In order to provide funds to carry out the functions of the committee, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler.

(c) *Disposition of excess funds from assessments.* If the first audit after the end of any crop year shows that the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, the excess shall be credited to the handlers in proportion to their relative total assessments and the portion to which each handler is entitled shall be credited against assessments in the following crop year, unless the handler shall request payment, in which event prompt payment shall be made.

(d) *Suits for collection.* The committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any handler for the collection of such handler's assessment.

§ 993.82 *Funds.* All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes authorized in this subpart and shall be accounted for in the manner provided for in this subpart. The Secretary may, at any time, require the committee or its members and alternate members to account for all receipts and disbursements.

MISCELLANEOUS PROVISIONS

§ 993.84 *Personal liability.* No member or alternate member of the committee, or any employee, representative, or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 993.85 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 993.86 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in mod-

ification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 993.87 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 993.88 *Agents*—(a) *Authorization by Secretary.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

(b) *Authorization by committee.* The committee may authorize any person or persons or agency to act as its agent or representative in connection with the provisions of this subpart.

§ 993.89 *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways specified in § 993.90.

§ 993.90 *Termination or suspension*—(a) *Failure to effectuate policy of act.* The Secretary may, at any time, terminate the provisions of this subpart, by giving at least one day's notice by means of a press release or in any other manner which he may determine. The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart on or before the fifteenth day of July of any crop year, to be effective at the end of such crop year, whenever he is required to do so by the provisions of section 8c (16) (B) of the act. The Secretary may, at any time he deems it desirable, hold a referendum of producers to determine whether they favor termination of this subpart. However, beginning with 1951, if the Secretary receives a recommendation, adopted by at least a majority vote of the producer members of the committee, requesting the holding of such a referendum, the Secretary shall hold such a referendum: *Provided*, That the Secretary shall not be required to hold such a referendum upon the basis of such a request more than once every two years.

(c) *Termination of act.* The provisions of this subpart shall terminate, in any event, upon the termination of the act.

§ 993.91 *Procedure upon termination.* Upon the termination of this subpart, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of the said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant to this subpart. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 993.92 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to such violation.

§ 993.93 *Amendments.* Amendments to this subpart may be proposed from time to time, by any person or by the committee, and may be made a part of this subpart by the procedures provided under the act.

§ 993.97 *Exhibit A; minimum standards.*

I. Minimum standards for natural condition prunes:

A. *Defects.* Defects are: (1) off-color; (2) inferior meat condition; (3) fermentation; (4) skin or flesh damage; (5) scab; (6) burned; (7) mold; (8) imbedded dirt; (9) insect infestation; (10) decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(4) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eighths of one inch (⅜") in length;

(b) Splits or skin breaks exposing flesh and affecting materially the normal appearance of the prunes;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance, edibility or keeping quality;

(e) Skin damage caused by rain or overdipping to the extent that the prunes cannot be processed normally without material sloughing of the skin.

(5) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eights inch (⅜") in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths inch (¾") in diameter.

(6) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(7) "Mold" means a characteristic fungus growth and is self-explanatory.

(8) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in or adhering to the prune that it cannot be removed in normal processing.

(9) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) The tolerance allowance for decay shall not exceed one percent (1%).

(2) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(3) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%).

(4) The combined tolerance for off-color, inferior meat condition, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed twenty percent (20%).

(5) Prunes showing obvious live insect infestation shall be fumigated prior to acceptance.

D. Natural condition prunes must be properly dried and cured in original natural condition, without the addition of water, and free from active infestation, so that they are capable of being received, stored and packed without deterioration or spoilage.

II. Minimum standards for processed prunes:

A. *Defects.* Defects are: (1) Off-color; (2) Inferior meat condition; (3) Fermentation; (4) Skin or flesh damage; (5) Scab; (6) Burned; (7) Mold; (8) Imbedded dirt; (9) Insect infestation; (10) Decay.

B. *Explanation of terms.* (1) "Off-color" means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) "Inferior meat condition" means flesh which is fibrous, woody or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) "Fermentation" means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(4) "Skin or flesh damage" means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, aggregating more than three-eighths of one inch (⅜") in length;

(b) Splits or skin breaks exposing flesh and materially affecting the normal appearance of French prunes; or markedly affecting the normal appearance of varieties other than the French variety;

(c) Any cracks, splits or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect the appearance, edibility or keeping quality.

(5) "Scab" means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch (⅜") in diameter, or by unsightly scab of other character exceeding in the aggregate the area of a circle three-fourths of one inch (¾") in diameter.

(6) "Burned" means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(7) "Mold" means a characteristic fungus growth and is self-explanatory.

(8) "Imbedded dirt" means the presence of dirt or other extraneous material so imbedded in or adhering to the prune that it cannot be readily removed in washing the fruit.

(9) "Insect infestation" means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowance for decay shall not exceed one percent (1%).

(3) The combined tolerance allowance for mold, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation and decay shall not exceed ten percent (10%).

(5) The combined tolerance for off-color, inferior meat condition, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation and decay shall not exceed twenty percent (20%).

Issued at Washington, D. C., this 17th day of August, 1951, to be, and become, effective on the third day after the publication hereof in the FEDERAL REGISTER.

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

C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-10057; Filed, Aug. 22, 1951; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 7, Amdt. 82]

PART 60—AIR TRAFFIC RULES

DANGER AREA ALTERATIONS

The danger area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required. Title 14, § 60.13–1 is amended as follows:

1. The Ajo, Arizona, area, published on May 17, 1951, in 16 F. R. 4607, is amended by changing the "Using Agency" column to read: "Air Training Command, Luke AFB, Phoenix, Arizona, and Air Defense Command, Yuma County Airport, Yuma, Arizona".

2. A Boullion Mountains, California, area is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
Boullion Mountain (Los Angeles chart).	Beginning at lat. 34°41'00" N, long. 116°03'00" W; SE to lat. 34°35'30" N, long. 115°58'00" W; ESE to lat. 34°33'00" N, long. 115°47'00" W; S to lat. 34°25'00" N, long. 115°47'00" W; E to lat. 34°25'00" N, long. 115°44'00" W; S to lat. 34°14'00" N, long. 115°44'00" W; W to lat. 34°14'00" N, long. 116°17'00" W; NW to lat. 34°43'00" N, long. 116°34'30" W; E to lat. 34°43'00" N, long. 116°17'00" W; ESE to lat. 34°41'00" N, long. 116°03'00" W, point of beginning.	Surface to unlimited.	Continuous.	Commandant, Eleventh Naval District, San Diego, Calif.

3. The Eureka, Washington, area, published on July 19, 1951, in 16 F. R. 6915, is deleted.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on August 31, 1951.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 51-10079; Filed, Aug. 22, 1951; 8:51 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 4]

PART 620—SECURITY CONTROL OF AIR TRAFFIC

ALASKAN DOMESTIC AND COASTAL ADIZ

Part 620 is hereby amended for the purpose of establishing Air Defense Identification Zones in the Alaska area. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

1. Section 620.13 is amended as follows:

§ 620.13 *Authorized exceptions.* * * *

(d) *Alaskan Domestic ADIZ.* The provisions of §§ 620.11 and 620.12 are not applicable to aircraft operating within the Alaskan Domestic ADIZ on a VFR flight originating from within the Alaskan Domestic ADIZ when the following instructions are observed:

(1) The flight is confined to altitudes of 2,000 feet or less above the immediate terrain; and

(2) The aircraft is flown no closer than 500 feet to any other aircraft.

2. Section 620.21 is amended as follows:

§ 620.21 *Domestic ADIZ's.* * * *

(f) *Alaskan Domestic ADIZ.* Area bounded by a line 70° 00' N., 141° 00' W.; 58° 30' N., 141° 00' W.; 58° 30' N., 150° 00' W.; 56° 35' N., 153° 00' W.; 54° 35' N., 163° 00' W.; 59° 30' N., 168° 30' W.; 68° 30' N., 168° 30' W.; 71° 45' N., 156° 30' W.; and 70° 00' N., 141° 00' W.

3. Section 620.22 is amended as follows:

§ 620.22 *Coastal ADIZ's.* * * *

(d) *Alaskan Coastal ADIZ.* The area bounded by a line 73° 00' N., 141° 00' W.; 70°00' N., 141°00' W.; 71°45' N., 156° 30' W.; 68° 30' N., 168° 30' W.; 59°30' N., 168° 30' W.; 54° 35' N., 163° 00' W.; 56° 35' N., 153° 00' W.; 58° 30' N., 150° 00' W.; 58° 30' N., 141° 00' W.; 50° 00' N., 160° 00' W.; 50° 00' N., 170° 00' E.; 52° 30' N., 170° 00' E.; 65° 00' N., 169° 00' W.; 73° 00' N., 169° 00' W.; 73° 00' N., 141° 00' W. (point of beginning).

(Secs. 205, 308, 52 Stat. 984, 986; 49 U. S. C. 425, 458. Interpret or apply secs. 1201–1205, 64 Stat. 825; 49 U. S. C. 701–705. E. O. 10197, Dec. 22, 1950, 15 F. R. 9180; 3 CFR, 1950 Supp.)

This amendment shall become effective thirty days after publication in the FEDERAL REGISTER.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 51-10078; Filed, Aug. 22, 1951; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 4458]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ELGIN RAZOR CORPORATION ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.70 *Fictitious or misleading guarantees;* § 3.130 *Manufacture or preparation;* § 3.155 *Prices; exaggerated as regular and customary: Usual as reduced, special, etc.;* § 3.235 *Source or origin; maker.* Subpart—*Misbranding or mislabeling:* § 3.1280 *Price;* § 3.1325 *Source or origin—Maker or seller.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 3.1980 *Guarantee, in general;* § 3.2000 *Limited offers or supply.* Subpart—*Passing off:* § 3.2105 *Passing off.* Subpart—*Simulating competitor or another or product thereof:* § 3.2245 *Trade name of competitor's or other's product.* Subpart—*Using misleading name; Goods:* § 3.2345 *Source or origin; maker.* In connection with the offering for sale, sale, or distribution

in commerce, of electric shavers, cameras, electric sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, and among other things, as in order set forth, and on the part of Elgin Razor Corporation, and four other corporations, and their officers, and on the part of respondent Henry T. Schiff, and three other individuals, as officers of said corporations and individually, and trading under various names as in the order set out, and on the part of two other individuals, and on the part of respondents' agents, etc., (a) using the names "Elgin", "Hamilton", or "Remington", or "Underwood", or any simulations thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products; (b) representing as the customary prices of respondents' products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business; (c) representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business; or, (d) representing, through the issuance of purported "Guarantee Certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Modified cease and desist order, Elgin Razor Corporation et al., Docket 4458, May 24, 1951]

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages or connections; identity: Plant and equipment.* Subpart—*Misbranding or mislabeling:* § 3.1230 *Identity.* Subpart—*Passing off;* § 3.2105 *Passing off.* Subpart—*Simulating competitor or another or product thereof:* § 3.2240 *Trade name of competitor.* Subpart—*Using misleading name; vendor:* § 3.2385 *Identity;* § 3.2440 *Plant and equipment.* In connection with the offering for sale, sale or distribution in commerce of the aforesaid products or any other merchandise, and among other things, as in order set forth, I, using the name "Elgin", or any simulation thereof, as a part of the corporate or trade name of respondent Elgin Razor Corporation, on the part of said corporation, and its officers, and on the part of respondent Henry T. Schiff, and three other individuals, individually and as officers of said corporation, and on the part of respondents' agents etc.; and, II, in said connection, (a) using the name "Underwood", or any simulation thereof, as a part of the corporate or trade name of respondent Underwood Laboratories, Inc., or, (b) using the word "laboratories", or any simulation thereof, as a part of the corporate or trade name of respondent Underwood Laboratories, Inc.; on the part of said corporation, and its officers, etc., as above set forth; and, III, in said connection, (c) using the name "Underwood", or any simulation thereof, as a part of the corporate or trade name of respondent Underwood Industries, Inc.; and on the part of said corporation, and its officers, etc., as above set forth; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Modified cease and desist order, Elgin Razor Corporation et al., Docket 4458, May 24, 1951]

Subpart—*Advertising falsely or misleadingly:* § 3.70 *Fictitious or misleading guarantees;* § 3.130 *Manufacture or preparation;* § 3.155 *Prices; exaggerated as regular and customary: Usual as reduced, special, etc.;* § 3.235 *Source or origin; maker.* Subpart—*Misbranding or mislabeling:* § 3.1280 *Price;* § 3.1325 *Source or origin; Maker or seller.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 3.1980 *Guarantee, in general;* § 3.2000 *Limited offers or supply.* Subpart—*Passing off:* § 3.2105 *Passing off.* Subpart—*Simulating competitor or another or product thereof;* § 3.2245 *Trade name of competitor's or other's product.* Subpart—*Using misleading name; goods:* § 3.2345 *Source or origin; maker.* In connection with the offering for sale, sale or distribution in commerce of the aforesaid products or any other merchandise, and among other things, as in order set forth, and on the part of respondent, The Monarch Manufacturing Company, and its officers, and on the part of six individual respondents, individually and as officers of said corporation, and on the part of respondents' agents, etc. (a) using the names "Elgin", "Remington", or "Underwood", or any simulations thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products; (b) representing as the customary prices of respondents' products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business; (c) representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business; or, (d) representing, through the issuance of purported "Guarantee Certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Modified cease and desist order, Elgin Razor Corporation et al., Docket 4458, May 24, 1951]

In the Matter of Elgin Razor Corporation, Underwood Laboratories, Inc., Underwood Industries, Inc., Match King, Inc., The Monarch Manufacturing Company, The American Supercraft Corporation, The American Camera Corporation, Electric Clock Corporation of America, corporations, and Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, Benjamin A. Schiff, Jack Galter, Dora M. Galter, William Galter, Harry C. Feinberg, Robert D. Schoenbrod, Arnold F. Shapiro, Albert I. Leight, Ed Cohan, Individuals

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, certain stipulations of fact entered into between the respondents and counsel for the Commission, and testimony and other evidence, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on August 14, 1947; and

Respondents Jack Galter, individually and as former president of Match King, Inc., a dissolved corporation, Dora M. Galter, William R. Galter, Arnold F. Shapiro, individually and as former President of American Supercraft Corporation, a dissolved corporation, and Monarch Manufacturing Company a corporation, having filed in the United States Court of Appeals for the Seventh Circuit their petition to review and set aside the order to cease and desist issued herein, and that Court having heard the matter on briefs and oral argument, fully considered the matter, and, on March 5, 1951, entered its final decree modifying and affirming, as modified, the aforesaid order to cease and desist pursuant to its opinion announced on February 5, 1951:

1. *Now therefore, it is hereby ordered,* That respondents Elgin Razor Corporation, Underwood Laboratories, Inc., Underwood Industries, Inc., The American Camera Corporation, and Electric Clock Corporation of America, corporations, and their officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff and Benjamin A. Schiff, as officers of said corporations and individually and trading under the names The Keen Manufacturing Company, Razor Service Co., General Chromium and Copper Company and Utility Manufacturing Company, or trading under any other name, and respondents Albert I. Leight and Ed Cohan, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of electric shavers, cameras, electric sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin", or any similation thereof, either alone or in connection with other words, to desig-

nate, describe or refer to respondents' products;

(b) Using the name "Hamilton" or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(c) Using the name "Remington" or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(d) Using the name "Underwood" or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(e) Representing as the customary prices of respondents' products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business;

(f) Representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business;

(g) Representing, through the issuance of purported "Guarantee Certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects.

2. *It is further ordered,* That respondent Elgin Razor Corporation, a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, and Benjamin A. Schiffff, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of electric shavers, cameras, electric sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin" or any simulation thereof, as a part of the corporate or trade name of said corporation.

3. *It is further ordered,* That respondent Underwood Laboratories, Inc., a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff and Benjamin A. Schiff, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of electric shavers, cameras, electric sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Underwood" or any simulation thereof, as a part of the corporate or trade name of said corporation;

(b) Using the word "Laboratories" or any simulation thereof, as a part of the corporate or trade name of said corporation.

4. *It is further ordered,* That respondent Underwood Industries, Inc., a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff and Benjamin A. Schiff, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of electric shavers, cameras, electric sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Underwood" or any simulation thereof, as a part of the corporate or trade name of said corporation.

5. *It is further ordered,* That respondent The Monarch Manufacturing Company, a corporation, and its officers, and respondents Jack Galter, Dora M. Galter, William Galter, Harry C. Feinberg, Robert D. Schoenbrod, and Arnold F. Shapiro, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of electric shavers, cameras, sunlamps, talking machines, electric clocks and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(b) Using the name "Remington" or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(c) Using the name "Underwood" or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(d) Representing as the customary prices of respondents' products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business;

(e) Representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business;

(f) Representing through the issuance of purported "Guarantee Certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects.

6. *It is further ordered,* That respondents Elgin Razor Corporation, Underwood Laboratories, Inc., Underwood Industries, Inc., The Monarch Manufacturing Company, The American Camera Corporation, and Electric Clock Corporation of America, corporations, and Henry T. Schiff, Frances R. Schiff, Benjamin A. Schiff, Jack Galter, individually and as former President of Match King, Inc., a dissolved corporation, Dora M. Galter, William Galter, Harry C. Feinberg, Robert D. Schoenbrod, Arnold F. Shapiro, individually and as former President of American Supercraft Corporation, a dissolved corporation, Albert I. Leight, and Ed Cohan shall, within ninety (90) days after the entry of the aforesaid decree by the United States Court of Appeals for the Seventh Circuit, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: May 24, 1951.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 51-10083; Filed, Aug. 22, 1951; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter II—Economic Stabilization Agency

[General Order 7, Amdt.]

GO 7—Temporary Emergency Railroad Wage Panel

1. The purpose of this order is to provide temporarily, until a permanent panel is established, the organization and procedure necessary to the administration of the wage stabilization program with respect to employees subject to provisions of the Railway Labor Act, pursuant to sections 403 and 502 of the Defense Production Act of 1950, as amended. ("Defense Production Act Amendments of 1951" approved July 31, 1951, Pub. Law 96.)

2. Section 2 of General Order No. 7, dated April 9, 1951, is hereby amended by the addition of the following paragraphs:

The Panel is further directed, pursuant to section 403 of the Defense Production Act, as amended, to receive and act upon requests for rulings and applications for approval of adjustments in wages, salaries, and other compensation of employees subject to the provisions of the Railway Labor Act. Such actions shall be in conformity with the standards established under the authority of the Defense Production Act of 1950, as amended, for the administration of controls over wages, salaries and other compensation. The regulations, policies, orders and decisions applicable to control of wages, salaries and other compensation generally shall be applicable to the employees subject to the provisions of the Railway Labor Act.

In accordance with section 502 of the Defense Production Act, as amended, the Panel or the Chairman thereof, shall, with respect to any proposed wage adjustment which is found to be approvable, make a specific finding and certification that the proposed adjustments are consistent with the standards in effect for the stabilization of wages, salaries and other compensation, including General Wage Regulations of the Wage Stabilization Board and regulations or policies of the Administrator. Such findings and certifications shall be submitted to the Administrator for approval, together with a statement of facts in support thereof.

Any arbitration board, emergency board or other agency provided for by the Railway Labor Act, including any panel or panel board established by the President, for the adjustment of disputes arising under such act, may file with the Administrator its specific finding and certification, in accordance with section 502 of the Defense Production Act, as amended, that the changes proposed by the settlement or recommended settlement of such dispute are consistent with the standards then in effect for the stabilization of wages, salaries and other compensation generally. Such finding and certification should be accompanied by a statement of facts in support thereof, as a basis for consideration and approval by the Administrator pursuant to section 502 of the Defense Production Act, as amended.

3. Appointments to the Panel shall expire 30 days from the effective date of this amendment.

4. Until the members of the Panel are appointed, the Chairman of the Panel is empowered to perform the functions outlined in this amendment.

5. The Administrator will provide the Panel with the necessary administrative staff to perform the functions outlined in this amendment.

6. This amendment shall be effective for a period of 30 days.

Issued: August 17, 1951.

ERIC JOHNSTON,
Administrator.

[F. R. Doc. 51-10150; Filed, Aug. 21, 1951; 2:03 p. m.]

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 55, Amdt. 2]

CPR 55—CERTAIN PROCESSED VEGETABLES OF THE 1951 PACK

AMENDMENT FOR INDIVIDUAL ADJUSTMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 2 to Ceiling Price Regulation 55 is issued.

STATEMENT OF CONSIDERATIONS

This amendment is issued to provide a method for adjustment of individual ceiling prices. This regulation uses a formula pricing method which uses for all products under the regulation, a base period in the year 1948. That year was selected because it is considered to be the latest period most representative of normal competitive conditions for the canning industry. Nevertheless, when this selection of the base period year was made, it was recognized that some price dislocations and distortions did exist in 1948 in the industry in different areas and for different products. For this reason, it was announced in the statement of considerations when this regulation was issued that provision is necessary for adjustment of individual ceiling prices to meet the particular problem resulting from the dislocations existing in 1948. In accordance with that announcement, this amendment is issued.

Insofar as practicable, the Director of Price Stabilization has consulted informally with industry representatives concerning this amendment.

AMENDATORY PROVISION

Section 8 is amended to read as follows:

SEC. 8. *Individual adjustment of processors' ceiling prices*—(a) *Who may apply.* If, as a result of abnormal price relationships in the base period, your ceiling prices generally as calculated under this regulation, are substantially out of line with the ceiling prices of your most closely competitive sellers of the same class when your relative prices are compared with the normal relationship which existed during the period from 1946 to 1950, you may apply to the Office of Price Stabilization, Washington 25, D. C., for adjustment of your ceiling prices.

(b) *Information to be submitted.* In filing an application for adjustment under this section, you shall submit the following information:

(1) For all items of the product which you process:

(i) A description of each of the items;

(ii) Your ceiling prices as calculated under this regulation;

(iii) Your base prices;

(iv) Your selling prices as of the date of application;

(v) Your requested ceiling prices.

(2) The names of three processors most closely competitive with you and whose operations are most comparable to your operation. Indicate which of the items are processed by each competitor.

(3) Price lists to show the relationship of your selling prices to your competitors' prices during the past five years. If you do not have or cannot obtain your competitors' price lists, state the reason why.

(4) A statement why the base period is not representative of your operations, what period would be representative and why.

(5) The number of cases of each item of the product packed each year during the years 1946 through 1950, and your estimated number of cases for 1951 (or the actual number if your pack is completed), and your total case volume of production of all processed fruits, berries and vegetables in each such year.

(6) Your company balance sheets and profit and loss statements for the years 1946 through 1950, or for such of those years in which you packed processed fruits and berries or vegetables.

(7) A projected profit and loss statement for 1951 computed on the basis of your 1950 volume and your current ceiling prices, except that 1951 volume shall be used for those products where the 1951 pack has been completed.

(8) Your basic wage rates for unskilled male and female labor for the years 1948 and 1951.

(9) The cost to you of the raw material per ton (or other unit of purchase), delivered at the factory, for the years 1948, 1950, and 1951.

In projecting 1951 profit and loss statements, your costs for the raw agricultural materials listed in Table II shall not exceed those resulting from the applications of the maximum permitted increases set forth in that table; and your costs for labor shall not exceed your wage rates authorized and effective under the regulations of the Wage Stabilization Board.

You shall submit such further information relating to your application for adjustment under this section as may be requested by the Office of Price Stabilization.

(c) *Factors to be considered in making individual adjustments.* In making any adjustment under this section, the following factors will be considered:

(1) The degree of abnormality of applicant's base prices.

(2) A comparison of price relationships, item by item, between applicant and his most closely competitive sellers of the same class from 1946 to date.

(3) Total unit costs of processing.

(4) A comparison of applicant's projected earnings based upon existing ceiling prices with 1946–1949 earnings.

(5) The amount of adjustment under section 402 (d) of the Defense Production Act, as amended.

(d) *Action to be taken by the Director of Price Stabilization.* The Director of Price Stabilization may upon filing of a petition under this section adjust (upward or downward) any or all of applicant's prices for the product for which he seeks adjustment. Such adjustments will be made upon the basis of the standards set forth in paragraph (c) of this section and will be in accordance with the purposes and requirements of the Defense Production Act of 1950, as amended by the Defense Production Act Amendments of 1951. Any adjustment made under this section may be revised or revoked at any time by the Director of Price Stabilization.

(e) During the consideration of any application under this section, the Director may authorize the applicant to agree with purchasers from him that any deliveries made during the pendency of the application shall be at the price determined by the disposition of the application.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective August 21, 1951.

NOTE: The record keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in

accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 21, 1951.

[F. R. Doc. 51-10166; Filed, Aug. 21, 1951; 4:00 p. m.]

[Ceiling Price Regulation 56, Amdt. 2]

CPR 56—CERTAIN PROCESSED FRUITS AND BERRIES OF THE 1951 PACK

AMENDMENT FOR INDIVIDUAL ADJUSTMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 2 to Ceiling Price Regulation 56 is issued.

STATEMENT OF CONSIDERATIONS

This amendment is issued to provide a method for adjustment of individual ceiling prices. This regulation uses a formula pricing method which uses for all products under the regulation a base period in the year 1948. That year was selected because it is considered to be the latest period most representative of normal competitive conditions for the canning industry. Nevertheless, when this selection of the base period year was made, it was recognized that some price dislocations and distortions did exist in 1948 in the industry in different areas and for different products. For this reason, it was announced in the statement of considerations when this regulation was issued that provision is necessary for adjustment of individual ceiling prices to meet the particular problem resulting from the dislocations existing in 1948. In accordance with that announcement, this amendment is issued.

Insofar as practicable, the Director of Price Stabilization has consulted informally with industry representatives concerning this amendment.

AMENDATORY PROVISION

Section 8 is amended to read as follows:

SEC. 8. *Adjustment of processors' ceiling prices*—(a) *Who may apply.* If, as a result of abnormal price relationships in the base period, your ceiling prices generally as calculated under this regulation, are substantially out of line with the ceiling prices of your most closely competitive sellers of the same class when your relative prices are compared with the normal relationship which existed during the period from 1946 to 1950, you may apply to the Office of Price Stabilization for adjustment of your ceiling prices.

(b) *Information to be submitted.* In filing an application for adjustment under this section, you shall submit the following information:

(1) For all items of the product which you process:

(i) A description of each of the items;

(ii) Your ceiling prices as calculated under this regulation;

(iii) Your base prices;

(iv) Your selling prices as of the date of application;

(v) Your requested ceiling prices.

(2) The names of three processors most closely competitive with you and whose operations are most comparable to your operation. Indicate which of the items are processed by each competitor.

(3) Price lists to show the relationship of your selling prices to your competitors' prices during the past five years. If you do not have or cannot obtain your competitors' price lists, state the reason why.

(4) A statement why the base period is not representative of your operations, what period would be representative and why.

(5) The number of cases of each item of the product packed each year during the years 1946 through 1950, and your estimated number of cases for 1951 (or the actual number if your pack is completed), and your total case volume of production of all processed fruits, berries and vegetables in each such year.

(6) Your company balance sheets and profit and loss statements for the years 1946 through 1950, or for such of those years in which you packed processed fruits and berries or vegetables.

(7) A projected profit and loss statement for 1951 computed on the basis of your 1950 volume and your current ceiling prices, except that 1951 volume shall be used for those products where the 1951 pack has been completed.

(8) Your basic wage rates for unskilled male and female labor for the years 1948 and 1951.

(9) The cost to you of the raw material per ton (or other unit of purchase), delivered at the factory, for the years 1948 and 1951.

In projecting 1951 profit and loss statements and in making unit cost estimates for 1951, your costs for the raw agricultural materials listed in Table III shall not exceed those resulting from the applications of the maximum permitted increases set forth in that table; and your costs for labor shall not exceed your wage rates authorized and effective under the regulations of the Wage Stabilization Board.

You shall submit such further information relating to your application for adjustment under this section as may be requested by the Office of Price Stabilization.

(c) *Factors to be considered in making individual adjustments.* In making any adjustment under this section, the following factors will be considered:

(1) The degree of abnormality of applicant's base prices.

(2) A comparison of price relationships, item by item, between applicant and his most closely competitive sellers of the same class from 1946 to date.

(3) Total unit costs of processing.

(4) A comparison of applicant's projected earnings based upon existing ceiling prices with 1946-49 earnings.

(5) The amount of adjustment under section 402 (d) of the Defense Production Act, as amended.

(d) *Action to be taken by the Director of Price Stabilization.* The Director of Price Stabilization may upon filing of a petition under this section adjust (upward or downward) any or all of applicant's prices for the product for which he seeks adjustment. Such adjustments will be made upon the basis of the standards set forth in paragraph (c) of this section and will be in accordance with the purposes and requirements of the Defense Production Act of 1950, as amended by the Defense Production Act Amendments of 1951. Any adjustment made under this section may be revised or revoked at any time by the Director of Price Stabilization.

(e) During the consideration of any application under this section, the Director may authorize the applicant to agree with purchasers from him that any deliveries made during the pendency of the application shall be at the price determined by the disposition of the application.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective August 21, 1951.

NOTE: The record keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 21, 1951.

[F. R. Doc. 51-10167; Filed, Aug. 21, 1951; 4:01 p. m.]

[Ceiling Price Regulation 14, Amdt. 5]

CPR 14—CEILING PRICES OF CERTAIN FOODS SOLD AT WHOLESALE

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 5 to Ceiling Price Regulation 14 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment corrects certain typographical errors; extends the deadline for filing applications for adjustment for "specialty" wholesalers, and establishes adjustment provisions for certain wholesalers who operate in a manner similar to wagon wholesalers but do not meet exactly the CPR 14 definition of wagon wholesalers.

Amendment 2 to CPR 14 provided an adjustment provision, with a deadline date which has expired, for "specialty" wholesalers. Since many wholesalers did not have sufficient time to file before the deadline, the filing date is extended to September 30, 1951. Also, it has been determined that there are some wholesalers who operate in exactly the same manner as "wagon wholesalers" and render the same services. The only difference is that these wholesalers take advance orders. They should be treated as "wagon wholesalers" and may now apply for adjustment if they fulfill the criteria set forth in section 27a.

In the formulation of these amendments, special circumstances have rendered impractical consultation with offi-

cial advisory committees, including trade association representatives, however, the provisions of this amendment incorporate the recommendations of persons representing substantial segments of the industry. In the judgment of the Director of Price Stabilization the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended; to prices prevailing during the period from May 24, 1950 to June 24, 1950, inclusive; and to relevant factors of general applicability.

AMENDATORY PROVISIONS

Ceiling Price Regulation 14 is amended in the following respects:

1. A new section 27a, is inserted in Article III after section 27 to read as follows:

SEC. 27a. *How certain wholesalers similar to wagon wholesalers may apply to use the provisions of the General Ceiling Price Regulation instead of the markups in this regulation for the purpose of establishing their ceiling prices for all items under this regulation except frozen foods.* (a) If you do business in the manner outlined in this section, you may apply under paragraph (b) of this section to use the provisions of the General Ceiling Price Regulation instead of the markups in this regulation for the purpose of establishing your ceiling prices on all items except frozen foods.

(1) During the year 1950 your operations and functions, on the items listed in Table A, except frozen foods, sold by you to retail stores, must have been identical with those of wagon wholesalers except that you took advance orders and thereafter delivered to the retailer;

(2) On 90 percent or more of the items listed in Table A, except frozen foods, sold by you to retail stores, you were the exclusive distributor of your supplier in the area in which you did business.

(3) You rendered special services not performed by the usual service wholesaler, such as rotation of stock in retail stores, the building of displays for merchandise you sold and exchanging stale merchandise.

(4) Your selling prices, for items listed in Table A, except frozen foods, were resale prices suggested to you by more than 50 percent of the manufacturers whose products you distribute.

(b) Your application must set forth the following:

(1) A list of the Table A items except frozen foods, you distributed in 1950 to retail stores, for each such item indicating: whether you were the exclusive distributor in your area; and, the markup over cost which was in effect during the 90 days prior to June 24, 1950;

(2) A list of the special services rendered by you but not performed by the usual service wholesaler, such as rotation of stocks in retail stores, the building of displays and the exchanging of stale merchandise;

(3) The number of manufacturers whose products you distribute, and the number of those who suggested to you resale prices;

(4) Any other information you consider relevant to demonstrating the similarity between your functions and those of a wagon wholesaler, and the difference between your functions and those of the usual service wholesalers.

2. Section 28b paragraph (b) is amended by substituting the date September 30, 1951 for the date May 31, 1951.

3. Section 35 paragraph (b) (19) is amended to read as follows:

(19) "Meat, canned" includes but is not limited to, canned or glass chicken products, canned or glass turkey products, chicken and noodles, meat gravy, meat ravioli, pickled meats, luncheon meats, chili con carne, meat stews, meat spreads, and spaghetti and meat balls. Not included in this definition are pigs feet, scrapple, tamales, tripe, veal loaf, mincemeat, frozen food products in which meat, chicken, or turkey are combined with other ingredients, frozen meat gravies and frozen meat stews and pies.

4. Section 35 paragraph (c) (19) is amended by deleting the words "and any canned meat which is removed from the can by the retailer and sold sliced in smaller amounts".

5. Section 35 paragraph (d) (8) "Fish, Processed" is amended to read as follows:

(8) Excluded are: Fresh fish and sea food, canned clam juice, fish and sea food pates, pastes and purees, sauce containing fish and sea food, fish roe, caviar, fish and sea food hors d'oeuvres, imported "fish, processed" if imported in consumer size containers, except tuna, crabmeat and salmon.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective on August 27, 1951.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10246; Filed, Aug. 22, 1951; 11:52 a. m.]

[Ceiling Price Regulation 15, Amdt. 6]

CPR 15—CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 3 AND GROUP 4 STORES

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 6 to Ceiling Price Regulation 15 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment establishes a provision for the pricing of certain special promotions in the form of joint sales; extends the date for filing applications for adjustments for "specialty" retailers; corrects certain typographical errors; and removes tub or bulk butter from the provisions of this regulation.

Manufacturers have historically used various types of promotional deals to induce consumers to try their products, to obtain additional distribution or to increase sales. Under present provisions of CPR 15 any free goods or any special reduction in price to retailers must be reflected in the "net cost" by retailers in figuring ceiling prices. This is proper when the special promotion is only a device for reducing the "net cost" to retailers. However, actual promotional deals under these present provisions are placed under a handicap because retailers have a completely unrealistic "net cost" on which to apply their markups, resulting in little or no profit margin to retailers on such deals. In order to induce retailers to go to the extra bother and incur the added overhead of handling special promotions in the form of joint sales this amendment provides that they receive a markup more in line with their historic markups on these sales. This will facilitate true special promotions in the form of joint sales, resulting in consumers benefiting by purchasing the items so sold at considerably less than the regular ceiling prices. Retailers may now figure ceiling prices for certain special promotions in the form of joint sales which will provide for a normal margin of profit on the special item in the joint sale. The price for the special item must be 50 percent or less of the retailer's existing ceiling price for the item, or for a new item for which the retailer does not have an existing ceiling price, he may use as his markup a maximum of 3 cents per item. This 3-cent markup is based upon the fact that historically most special promotions in the form of joint sales have been so set up that the average return to the retailer on the special item was 3 cents.

Amendment 2 to CPR 15 provided an adjustment provision, with a filing date which has expired, for "specialty" retailers. Since many retailers did not have sufficient time to file before the deadline, the filing date is extended to September 30, 1951.

This amendment removes tub butter from the CPR 15 commodity definition of "butter" and limits the coverage to packaged butter. Evidence has been presented to OPS which indicates that tub butter is handled and sold in an entirely different manner than butter which the retailer buys already packaged. This provision places sales of such bulk butter under the base period ceilings of the General Ceiling Price Regulation.

In the formulation of these amendments, special circumstances have rendered impractical consultation with official advisory committees, including trade association representatives; however, the provisions of this amendment incorporate the recommendations of

persons representing substantial segments of the industry. In the judgment of the Director of Price Stabilization the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended; to prices prevailing during the period from May 24, 1950 to June 24, 1950, inclusive; and to relevant factors of general applicability.

AMENDATORY PROVISIONS

1. Section 3 is amended by adding a new paragraph (d) to read as follows:

(d) *Pricing special promotions.* Where you have a "special promotion" consisting of two or more items bound together for joint sale or bearing appropriate printing or labeling referring to the joint sale, you shall compute your ceiling price for the joint sale as follows:

(1) Determine which item or items are the regular portion of the "special promotion" and which item or items are the "special" portion.

(2) For the regular item or items compute your ceiling prices according to this regulation, disregarding entirely the special item or items.

(3) For the special item or items you may charge up to 50 percent of your existing ceiling price for those items.

(4) If you have no existing ceiling price for the special item or items you may use as your markup a maximum of 3 cents per item.

(5) Your ceiling price for the joint sale is the sum of the ceiling price for the regular item plus the price determined under subparagraph (3) or (4) of this paragraph for the special items.

You may not price any special promotion on the same items under this paragraph for a period of more than 120 days. Also you may not price under this paragraph another special promotion on the same items until six months after the conclusion of the previous such offering.

2. Section 26a paragraph (b) is amended by substituting the date September 30, 1951, for the date May 30, 1951.

3. Section 35 paragraph (i) is amended by placing a comma after the word "boats" in the second sentence.

4. Section 37 paragraph (b) (19) is amended to read as follows:

(19) "Meat, canned" includes but is not limited to, canned or glass chicken products, canned or glass turkey products, chicken and noodles, meat gravy, meat ravioli, pickled meats, luncheon meats, chili con carne, meat stews, meat spreads and spaghetti and meat balls. Not included in this definition are pigs feet, scrapple, tamales, tripe, veal loaf, mincemeat, frozen food products in which meat, chicken or turkey are combined with other ingredients, frozen meat gravies and frozen meat stews and pies.

5. In section 38 paragraph (b) the "butter" commodity definition under "dairy products" is amended to read as follows: "Butter (packaged) means only butter from milk, including but not limited to, processed salted, unsalted and whipped butter. Not included in this definition are peanut, nut, fruit or honey butters."

Paragraph (c) of the same commodity definition is amended to read as follows: "Butter excluded: Bulk or tub butter."

6. Section 39 paragraph (a) Table C is amended as follows: "Where the net cost is 34 cents and the markup is 25 percent the ceiling price of 42 cents is changed to read 43 cents and where the net cost is 72½ cents and the markup is 29 percent the ceiling price of 93 cents is changed to read 94 cents."

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective on August 27, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10247; Filed, Aug. 22, 1951; 11:52 a. m.]

[Ceiling Price Regulation 16, Amdt. 6]

CPR 16—CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 1 AND GROUP 2 STORES

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 6 to Ceiling Price Regulation 16 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment establishes a provision for the pricing of certain special promotions in the form of joint sales; extends the date for filing applications for adjustment for "specialty" retailers; corrects certain typographical errors; permits Group 1 stores to reclassify as Group 2 stores; and removes tub or bulk butter from the provisions of this regulation.

Manufacturers have historically used various types of promotional deals to induce consumers to try their products, to obtain additional distribution or increase sales. Under present provisions of CPR 16 any free goods or any special reduction in price to retailers must be reflected in the "net cost" by retailers in figuring ceiling prices. This is proper when the special promotion is only a device for reducing the "net cost" to retailers. However, actual promotional deals under these present provisions are placed under a handicap because retailers have a completely unrealistic "net cost" on which to apply their markups, resulting in little or no profit margin to retailers on such deals. In order to induce retailers to go to the extra bother and incur the added overhead of handling special promotions in the form of joint sales this amendment provides that they receive a markup more in line with their historic markups on these sales. This will facilitate true special promotions in the form of joint sales, resulting in consumers benefiting by purchasing the items so sold at considerably less than the regular ceiling prices. Retailers may now figure ceiling prices for certain special promotions in the form of join sales which will provide for a normal margin of profit on the special item in the joint sale. The price for the special item must be 50 percent or less of the retailer's existing ceiling price for the item, or for a new item for which the retailer does not have an existing ceiling price, he may use as his markup a maximum of 3 cents per item. This 3-cent markup is based upon the fact that historically most special promotions in the form of joint sales have been so set up that the average return to the retailer on the special item was 3 cents.

Amendment 2 to CPR 16 provided an adjustment provision, with a filing date which has expired, for "specialty" retailers. Since many retailers did not have sufficient time to file before the deadline, the filing date is extended to September 30, 1951.

This amendment removes tub butter from the CPR 16 commodity definition of "butter" and limits the coverage to packaged butter. Evidence has been presented to OPS which indicates that tub butter is handled and sold in an entirely different manner than butter which the retailer buys already packaged. This provision places sales of such bulk butter under the base period ceilings of the General Ceiling Price Regulation.

CPR's 15 and 16 permit Group 3 retailers to reclassify to Group 4, and Group 1 retailers to reclassify to Group 3 or 4. It has been determined that provision should be made to permit Group 1 retailers to reclassify to Group 2. This provision will result in a reduction of ceiling prices and a saving to the consumer.

In the formulation of these amendments, special circumstances have rendered impractical consultation with official advisory committees, including trade association representatives; however, the provisions of this amendment incorporate the recommendations of persons representing substantial segments of the industry. In the judgment of the Director of Price Stabilization the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended; to prices prevailing during the period from May 24, 1950 to June 24, 1950, inclusive; and to relevant factors of general applicability.

AMENDATORY PROVISIONS

1. Section 2, paragraph (d) is amended to read as follows:

(d) *When you choose to treat your store as a Group 2, 3 or 4 store.* You may choose to treat your store as either a

Group 2 store under this regulation or a Group 3 or 4 store under Ceiling Price Regulation No. 15 and display a sign in your store as a member of such other group if you:

(1) Figure your ceiling prices for all the items listed in Tables A and B of this regulation as a member of the group you choose; and

(2) Notify the OPS District Office for your area of these facts.

2. Section 3 is amended by adding a new paragraph (d) to read as follows:

(d) *Pricing special promotions.* Where you have a "special promotion" consisting of two or more items bound together for joint sale or bearing appropriate printing or labeling referring to the joint sale, you shall compute your ceiling price for the joint sale as follows:

(1) Determine which item or items are the regular portion of the "special promotion" and which item or items are the "special" portion.

(2) For the regular item or items compute your ceiling prices according to this regulation, disregarding entirely the special item or items.

(3) For the special item or items you may charge up to 50 percent of your existing ceiling price for those items.

(4) If you have no existing ceiling price for the special item or items you may use as your markup a maximum of 3 cents per item.

(5) Your ceiling price for the joint sale is the sum of the ceiling price for the regular item plus the price determined under subparagraphs (3) or (4) of this paragraph for the special items.

You may not price any special promotion on the same items under this paragraph for a period of more than 120 days. Also you may not price under this paragraph another special promotion on the same items until six months after the conclusion of the previous such offering.

3. Section 24a paragraph (b) is amended by substituting the date September 30, 1951 for the date May 30, 1951.

4. Section 32 paragraph (b) (19) is amended to read as follows:

(19) "Meat, canned" includes but is not limited to, canned or glass chicken products, canned or glass turkey products, chicken and noodles, meat gravy, meat ravioli, pickled meats, luncheon meats, chili con carne, meat stews, meat spreads and spaghetti and meat balls. Not included in this definition are pigs feet, scrapple, tamales, tripe, veal loaf, mincemeat, frozen food products in which meat, chicken or turkey are combined with other ingredients, frozen meat gravies and frozen meat stews and pies.

5. In section 33 paragraph (b), the "butter" commodity definition under "dairy products" is amended to read as follows: "Butter (packaged) means only butter from milk, including but not limited to, processed salted, unsalted and whipped butter. Not included in this definition are peanut, nut fruit or honey butters."

Paragraph (c) of the same commodity definition is amended to read as follows: "Butter excluded: Bulk or tub butter."

6. Section 34 paragraph (a) Table C is amended as follows: "Where the net cost is 34 cents and the markup is 25 percent the ceiling price of 42 cents is changed to read 43 cents, and where the net cost is 72½ cents and the markup is 29 percent the ceiling price of 93 cents is changed to read 94 cents."

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective on August 27, 1951.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10248; Filed, Aug. 22, 1951; 11:53 a. m.]

[Ceiling Price Regulation 34, Amdt. 1 to Supplementary Regulation 1]

CPR 34—SERVICES

SR 1—WHOLESALE DRY CLEANING, FINISHING AND DYEING IN THE NEW YORK CITY AREA

WESTCHESTER COUNTY, NEW YORK

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment to Supplementary Regulation 1 (16 F. R. 5698) to Ceiling Price Regulation 34 (16 F. R. 4446) is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Supplementary Regulation 1 to Ceiling Price Regulation 34 authorizes wholesalers of dry cleaning, finishing and dyeing services in Westchester County, New York, to revert to prevailing prices charged prior to June 14, 1951 for cleaning and finishing certain garments.

Since 1942, prices for wholesale cleaning and finishing services have been slightly higher in Westchester County than in the other seven counties in the New York City area. At the time Supplementary Regulation 1 was issued, the fact that there existed in Westchester County a slightly higher price differential for the cleaning and finishing of certain garments was not taken into consideration when the schedule of prices was prepared, thus resulting in a rollback of certain prices charged by five or six plants servicing this County. Therefore, this action not only precluded the recovery of increased labor and material costs by those plants, but instead reduced some of their prices.

This amendment merely restores to wholesalers selling services in Westchester County prices prevailing prior to the issuance of Supplementary Regulation 1 for cleaning and finishing certain garments.

The limited nature of the provisions of this amendment to Supplementary Regulation 1 made it unnecessary to consult formally with industry representatives. However, various representatives from the affected service fields were informally consulted and consideration was given to their recommendations. In the judgment of the Director of Price Stabilization the provisions of this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

AMENDATORY PROVISIONS

Supplementary Regulation 1 to Ceiling Price Regulation 34 is hereby amended in the following respects:

1. Paragraph (a) of section 3 is amended by adding in the first sentence after "Westchester", the following, "(with certain exceptions set forth in subparagraph (3))", so that section 3 (a) reads as follows:

SEC. 3. *Ceiling prices.* (a) The ceiling prices which may be charged by sellers of wholesale cleaning, finishing and dyeing services in the counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk and Westchester (with certain exceptions set forth in subparagraph (3) of this paragraph), New York, shall be as follows:

2. The subparagraph entitled "(a)" of paragraph (a) of section 3 is amended by striking the letter "(a)" in the first line thereof and inserting in its place the figure "(1)".

3. The subparagraph entitled "(b)" of paragraph (a) of section 3 is amended by striking the letter "(b)" in the first line thereof and inserting in its place the figure "(2)".

4. A new subparagraph (3) is added to paragraph (a) of section 3 to read as follows:

(3) *Certain exceptions in Westchester County, New York.* In the area beginning with the Bronx-Westchester line and extending north, east and west to the limits of and including the City of White Plains, the ceiling prices for "Sales to Outlets", "Cleaned and Finished", for Men's, Women's and Children's Suits, Topcoats, Overcoats and Children's Dresses and Ladies Dresses (plain—up to 4 pleats) shall be $.60. In the area beginning with the North City Line of the City of White Plains and extending north, east and west for the remainder of Westchester County, the ceiling prices for "Sales to Outlets", "Cleaned and Finished" for Men's, Women's and Children's Suits, Topcoats, Overcoats and Children's Dresses and Ladies' Dresses (plain—up to 4 pleats) shall be $.60; for "Sales to Outlets", "cleaned only", the ceiling prices for Men's, Women's and Children's Suits, and Children's Dresses and Ladies' Dresses (plain—up to 4 pleats) shall be $.30. All other prices in Schedule A are applicable to wholesale dry cleaning and finishing and dyeing services in Westchester County, New York.

Effective date. This amendment shall become effective on August 27, 1951.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

MICHAEL V. DISALLE,
Director,
Office of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10249; Filed, Aug. 22, 1951; 11:53 a. m.]

[Ceiling Price Regulation 30, Amdt. 8]

CPR 30—MACHINERY AND RELATED MANUFACTURED GOODS

BRAND NAME MANUFACTURERS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 8 to Ceiling Price Regulation 30 is hereby issued.

STATEMENT OF CONSIDERATIONS

Ceiling Price Regulation 30 as originally issued included within its coverage any person who sells a commodity under his own brand or trade name. These sellers were included within the coverage of Ceiling Price Regulation 30 because their pricing practices generally conformed to the pricing practices of producers. However, experience under the regulation has indicated that the provisions of Ceiling Price Regulation 30 are not well adapted to the pricing of commodities by persons who do not perform any manufacturing functions with respect to the same or similar commodities, or commodities for which the commodities he purchases are used as replacement parts. Generally, such sellers determine their selling prices in the same manner as resellers who do not sell commodities under their own brand or trade name. Accordingly, the regulation has been amended to limit its coverage to those persons who sell a commodity under their own brand or trade name, where they produce the same or a similar commodity in their own plant, or where the commodity which they sell under their own brand or trade name is a replacement part for a commodity which they produce in their own plant.

The wide coverage of this amendment made it impossible to consult in detail with representatives of all the industries affected. However, in the preparation of this amendment conferences were held with many industry representatives and consideration was given to their recommendations.

AMENDATORY PROVISIONS

Section 45 (k) (3) is amended to read as follows:

(3) Any person who sells a commodity under his own brand or trade name, where he produces the same or a similar commodity in his own plant, or where the commodity which he sells under his own brand or trade name is a replacement part for a commodity which he produces in his own plant.

Effective date. The effective date of this amendment is August 27, 1951.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10256; Filed, Aug. 22, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Amdt. 5 to Supplementary Regulation 5]

GCPR, SR 5—RETAIL PRICES FOR NEW AND USED AUTOMOBILES

PRICING OF SPECIALLY DESIGNED AUTOMOBILES AND AUTOMOBILES CONTAINING CERTAIN AIR-CONDITIONING UNITS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this Amendment 5 to Supplementary Regulation 5 (16 F. R. 1769) to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment permits the ceiling price of used cars to be increased by the price of compressor type, refrigerated air-conditioning units which have been installed in used cars in certain sections of the country. Such units are of considerable original cost and of continuing value to users in those areas. For this reason used cars equipped with these units have customarily commanded a price which reflected in part the cost of the units.

This amendment also makes it clear that a seller of a used car which has been modified from its original design by the addition of a custom body or a specially designed engine determines the price of such automobile under the General Ceiling Price Regulation rather than by any price set forth in a guide book. The change effected by such a modification takes the car out of the model designation used in the guide book.

This action is taken as a result of requests from numerous sellers of used automobiles. No further consultation with representatives of the industry was deemed necessary or practical.

AMENDATORY PROVISIONS

Supplementary Regulation 5 to the General Ceiling Price Regulation is amended in the following respects:

1. Section 4 (c) is amended to read as follows:

(c) The ceiling price may be increased by the amount of the used equipment price for any radio, heater, or optional transmission or drive which is furnished with the car and for which a used equipment price is separately listed in the guide which the seller uses. The ceiling price may also be increased by the price of any compressor type, refrigerated air-conditioning unit installed in used cars, the price of which unit shall be determined under the provisions of the General Ceiling Price Regulations.

2. Section 4 (d) is amended to read as follows:

(d) If the guide does not list any model of the used car, or if the used car has been substantially modified from its original design by the addition of a special body or engine, the ceiling price shall be determined under the provisions of the General Ceiling Price Regulation.

Effective date. This Amendment 5 to Supplementary Regulation 5 to the General Ceiling Price Regulation shall become effective August 27, 1951.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10257; Filed, Aug. 22, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Amdt. 1 to Supplementary Regulation 49]

GCPR, SR 49—BASIC TIRE CARCASSES, RECAPPED AND RETREADED TIRES

DEFINITION OF BASIC TIRE CARCASS AND MODIFICATION OF METHOD FOR CALCULATING CEILING PRICES OF RECAPPED TIRES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Supplementary Regulation 49 to the General Ceiling Price Regulation is issued.

STATEMENT OF CONSIDERATIONS

In the interest of clarifying SR 49 to GCPR, this amendment distinguishes a basic tire carcass both from used and scrap tires by supplying the definition of "basic tire carcass" which appears in section 1.

As SR 49 formerly read, the recapper's ceiling price to a dealer would be his wholesale price for the recapping service, plus his wholesale price for the basic tire carcass, which was specified to be $2.60. Actually, however, though the cost of a basic tire carcass to a recapper is generally $2.60, the recapper's price to the dealer has generally been $3.50. Therefore section 3 is amended in order to permit the recapper himself rather than any dealer in recapped tires subsequent to the recapper to obtain the 90 cent differential between the wholesale and retail price of the basic tire carcass, permitted under section 2.

The result not only follows industry practice, but is based in part on the fact that the recapper rather than any subsequent dealer bears the expenses incurred in connection with the carcasses, including those of collection, inspection, and losses thru guarantees.

In the limited cases, however, where a basic tire carcass is supplied by a dealer to a recapper, and the recapper turns over a recapped tire to the dealer, the two transfers will naturally be regarded as parts of one transaction; as to such transaction, the recapper will of course be permitted to charge the

dealer only for the recapping service. Thus the dealer, who will have bought the basic tire carcass for no more than the wholesale ceiling price of $2.60, will compute his ceiling price for the recapped tire sold to the ultimate user by adding to his retail ceiling price for the recapping service the retail ceiling price of the basic tire carcass, $3.50, so that the dealer gets the 90 cent differential in such case.

Since the original issuance of SR 49 inadvertently contained certain departures from GCPR price levels, such changes in ceiling prices as are brought about by this amendment merely restore the general level of GCPR ceiling prices.

In view of the fact that this amendment restores price practices in effect under the General Ceiling Price Regulation, the Director has not found it necessary or practicable to consult formally with industry prior to the formulation of this amendment. There has been, however, consultation with individual members of the industry and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

1. Section 1 is amended by adding the following paragraph:

A basic tire carcass is a tire whose tread design has been worn smooth for 4 or more consecutive inches in any direction but is sound or has been made sound with vulcanized repairs, and can be recapped or retreaded for safe use under normal operating conditions. A sound tire is one in need of no repair.

2. Paragraph (a) of section 3 is amended to read as follows:

(a) *Passenger tires.* The ceiling price for the sale of a recapped or retreaded passenger car tire shall be the particular seller's ceiling price for the recapping service, as determined under CPR 34, plus $3.50.

Effective date. This amendment shall become effective on August 27, 1951.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10250; Filed, Aug. 22, 1951; 11:53 a. m.]

[General Overriding Regulation 17]

GOR 17—SALES BY CONCESSIONERS OF THE NATIONAL PARK SERVICE

Pursuant to the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong., Pub. Law 96, 82nd Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this General Overriding Regulation 17 is hereby issued.

STATEMENT OF CONSIDERATIONS

General Overriding Regulation 17 establishes ceiling prices for certain sales by concessioners of the National Park Service.

In accordance with the act of August 25, 1916, c. 408, sec. 1, 39 Stat. 535, as amended (16 U. S. C. 1) (1946 ed.), the National Park Service of the Department of Interior is responsible for the administration of the national parks, monuments, and other areas and for the conservation and enjoyment thereof. Under this act, the National Park Service enters into contracts with concessioners for the purpose of providing necessary accommodations, commodities, facilities, and services for visitors to such areas. These contracts provide that all rates and prices charged to the visiting public by the concessioners shall be subject to regulation and control by the National Park Service.

During the many years that the National Park Service has exercised control over such concession operations, it has developed a system of review prior to approval and of policing after approval which utilizes the superintendent of the area concerned and his staff, technical concession management personnel in the regional offices of the National Park Service, and personnel of the Concessions Management Division in the National office. This control is designed to provide reasonable rates to the visiting public, taking into consideration the many factors involved in furnishing commodities and services in the areas, such as the seasonal nature of the operations, accessibility, availability and cost of labor and materials, prices charged for comparable items and services outside such areas, and the necessity of permitting the concessioners to earn a fair profit on their operations as a whole. The Office of Price Stabilization has compared many of the prices being charged by concessioners of the National Park Service and has found them to be generally in line with those prevailing for comparable items in areas outside the jurisdiction of the National Park Service.

The number and type of commodities and services offered by the concessioners very with the size of the operations. However, some offer more than four hundred commodities and services, including such items as transportation, lodging, groceries, garages, service stations, souvenirs, laundry and dry cleaning, barber shops, restaurants, shoe repairs, ski-lifts, golf courses, etc. Under existing regulations, the establishment of ceiling prices for some of these commodities and services has been delegated to the District offices of the Office of Price Stabilization; others must be handled by the National office.

Since most of the national park concessions are seasonal in nature, the National Park Service generally begins during the fall of each year to examine and approve rates and price schedules submitted by the concessioners for the following year's operations. Many such schedules are approved by December. At the time of the issuance of the General Ceiling Price Regulation on January 25, 1951, more than 95 percent of all of the concessioners had submitted rate and price schedules to the National Park Service for its approval. Such schedules, when approved, would have been effective during the 1951 season. However, the price freeze prevented the National Park Service from approving rates and prices for commodities and services covered by the said regulation.

This regulation is deemed necessary in order to eliminate the filing of numerous applications with the District and National offices of the Office of Price Stabilization and to permit the National Park Service to give force and effect to its contracts, of which rate control over concession operations is an integral part.

Under the circumstances existing in this case, it is felt that the prices and rates which are subject to the approval of the National Park Service should be handled on an over-all basis and that centralization in the National office of the Office of Price Stabilization is desirable.

With respect to the commodities and services covered, this regulation supersedes all other regulations, except, however, that concessioners are required to preserve their records of prices in effect for commodities and services offered for delivery during the base period December 19, 1950 to January 25, 1951.

In the judgment of the Director of Price Stabilization the provisions of this regulation are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended.

Prior to the issuance of this regulation, the Director consulted with the National Park Service and with representative concessioners and has given consideration to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Sales by concessioners of the National Park Service.
3. Records.
4. Prohibitions.
5. Definitions.

AUTHORITY: Sections 1 to 5 issued under Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This regulation establishes ceiling prices for sales by concessioners of the National Park Service of commodities and services which are subject to price control. It does not apply to any commodity or service which is now or hereafter exempted from price control by any other price regulation.

SEC. 2. *Sales by concessioners of the National Park Service.* Notwithstanding the provisions of any other price regulation, the ceiling price for the sale by a concessioner of the National Park Service of any commodity or service for which a price is specified in any contract with, or rate schedule approved by, the National Park Service for the calendar year 1951 shall be the price specified in such contract or rate schedule: *Provided, however,* That (1) such contracts and rate schedules shall be filed by the National Park Service with the Office of Price Stabilization, and (2) any price subsequently approved by the National Park Service which varies from the price so specified shall, following such approval, be filed by the National Park

Service with the Office of Price Stabilization, Washington 25, D. C., together with justification for such variation, and, if not objected to by the Office of Price Stabilization within 30 days following the receipt thereof, shall become the ceiling price for any such sale after that date.

SEC. 3. *Records.* A seller of commodities and services, the ceiling price for which is established by this regulation, shall not be required to comply with the reporting or record-keeping provisions of any other price regulation but must preserve and keep available for examination by the Director of Price Stabilization records in his possession showing the prices charged by him for the commodities and services which he delivered or offered to deliver during the base period December 19, 1950, to January 25, 1951.

SEC. 4. *Prohibitions.* No person covered by this regulation shall sell, or in the regular course of business buy, any commodity or service at a price higher than the applicable ceiling price established by this regulation. Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Defense Production Act of 1950, as amended.

SEC. 5. *Definitions.* "Price regulation" means a ceiling price regulation heretofore or hereafter issued by the Office of Price Stabilization, and any amendment or supplement thereto or order issued thereunder.

Effective date. This General Overriding Regulation 17 shall become effective August 27, 1951.

NOTE: The reporting requirements of this General Overriding Regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 22, 1951.

[F. R. Doc. 51-10251; Filed, Aug. 22, 1951; 11:53 a. m.]

Chapter VI—National Production Authority, Department of Commerce

[CMP Regulation No. 3, Direction 3]

CMP REG. 3—PREFERENCE STATUS OF DELIVERY ORDERS UNDER THE CONTROLLED MATERIALS PLAN

DIR. 3—STATUS OF CERTAIN ORDERS FOR CONTROLLED MATERIALS DURING THE FOURTH QUARTER OF 1951

This direction under CMP Regulation No. 3 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

SECTION 1. Since CMP allotments for delivery of controlled materials during the fourth quarter of 1951 will be issued to persons who previously operated under the provisions of NPA Orders M-47A and M-68, it is the purpose of this direction to give such persons sufficient time to convert unrated orders for controlled materials which they have placed for delivery during the fourth quarter of 1951 into authorized controlled material orders, thus also minimizing disruption of mill schedules and production of consumer durable goods and passenger automobiles.

SEC. 2. Notwithstanding the provisions of section 4 of CMP Regulation No. 3, an unrated order which has been accepted by a controlled materials producer for delivery of controlled materials during the fourth quarter of 1951 shall have equal preferential status with an authorized controlled material order until September 10, 1951. Subsequent to September 10, 1951, the provisions of said section 4 of CMP Regulation No. 3 shall govern such delivery orders for controlled materials. If an unrated delivery order for controlled materials has not been converted into an authorized controlled material order on or before September 10, 1951, the controlled materials producer by whom it has been accepted shall cancel it.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; sec. 101, E. O 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Sup.; sec. 2, E. O. 10200, Jan. 3, 1951, 61 F. R. 61.)

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-10195; Filed, Aug. 21, 1951; 5:15 p. m.]

[NPA Order M-1, Direction 3]

M-1—IRON AND STEEL

DIR. 3—ORDER ACCEPTANCE; SET-ASIDE CANCELLATION

This direction to NPA Order M-1 is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section 101 of the Defense Production Act of 1950 as amended. In the formulation of this direction there has been consultation with industry representatives and consideration has been given to their recommendations.

Sec.
1. What this direction does.
2. Acceptance of orders.
3. Set-aside cancellation.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; sec. 101 E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this direction does.* This direction preserves the established flow of steel products and minimizes customer relationship disruptions by permitting steel producers, until 15 days prior to the expiration of lead times, to accept orders, within certain limitations, without regard to the date of receipt of such orders.

SEC. 2. *Acceptance of orders.* Until 15 days prior to the expiration of lead time, a steel producer shall have the option of determining which authorized controlled material orders or portions thereof he will accept and schedule without regard to dates of receipt of such orders: *Provided,* That the total of the orders accepted does not exceed 90 percent of the percentages set forth in columns (1), (2), and (3) in part C of Table I of NPA Order M-1 as amended, applicable to the product involved for that month: *And provided further,* That there shall be included in such 90 percent, (a) all orders bearing allotment symbols A through E which have been offered to him, (b) all NPA directives received by him, (c) proposed shipments to distributors under NPA Order M-6 as amended, and (d) proposed shipments to producer converters under NPA Order M-1 as amended. Orders which are not accepted shall be returned immediately so that the purchasers may place such orders with other suppliers. Within the 15-day period immediately preceding the expiration of lead times, a steel producer shall accept and schedule for production all authorized controlled material orders offered to him, up to the maximum total of his required order acceptance. Such orders shall be scheduled for production with precedence given to the order received first.

SEC. 3. *Set-aside cancellation.* Effective September 17, 1951, all percentages applying to steel mill products as set forth in columns (1), (2), and (3) in part C of Table I of NPA Order M-1 as amended, are cancelled and each steel producer shall accept orders only to fulfill NPA directives, distributor orders under section 4 of NPA Order M-6 as amended, producer converter orders under section 8 of NPA Order M-1 as amended, and authorized controlled material orders. Commencing September 17, 1951, the 90 percent referred to in section 2 of this direction shall be applicable to a producer's total authorized production of the product involved.

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-10196; Filed, Aug. 21, 1951; 4:55 p. m.]

[NPA Order M-1, Direction 4]

M-1—IRON AND STEEL

DIR. 4—TONNAGE RESERVATION

This direction to NPA Order M-1 is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section 101 of the Defense Production Act of 1950 as amended. In the formulation of

this direction consultation with industry representatives has been rendered impracticable due to the need for immediate action.

Sec.
1. What this direction does.
2. Certain tonnages reserved.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; Sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this direction does.* This direction provides for the transition to a full CMP operation in the fourth quarter by reserving the former "free area" in steel products for the acceptance of authorized controlled material orders from producers of consumer durable goods and passenger automobiles.

SEC. 2. *Certain tonnages reserved.* Until September 17, 1951, all available tonnages of each steel mill product to be produced in excess of the percentages set forth in columns (1), (2), and (3) in part C of Table I of NPA Order M-1 as amended (or as modified by NPA in the case of certain individual producers), shall be reserved by each steel producer for acceptance of fourth quarter 1951 authorized controlled material orders bearing allotment symbols which are identified by the suffix "X" (for example, V-IX or L-IX), or for unrated orders which are converted into authorized controlled material orders not later than September 10, 1951. In accepting such orders for November 1951 delivery, each steel producer may, but is not required to, accept and schedule or reschedule such orders until September 10, 1951, without regard to date of receipt by him of such orders. From September 10 to September 17, 1951, each steel producer shall accept and schedule for production such orders calling for November 1951 delivery (or later delivery in the case of products with longer than 45-day lead time), offered to him within the tonnages reserved herein. Such orders shall be scheduled for production with precedence given to the order received first. With respect to such orders calling for delivery after November 1951, the provisions of Direction 3 to NPA Order M-1 shall apply (except orders for products having more than a 45-day lead time which are placed prior to September 17, 1951, pursuant to this direction).

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-10197; Filed, Aug. 21, 1951; 4:55 p. m.]

[NPA Order M-5, Direction 1]

M-5—RATED ORDERS FOR ALUMINUM

DIR. 1—ORDER ACCEPTANCE

This direction under NPA Order M-5 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950 as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Acceptance of orders.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Supp. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this direction does.* This direction preserves the established flow of aluminum controlled materials and minimizes customer relationship disruptions by permitting aluminum controlled material producers, until 15 days prior to the expiration of lead times, to accept orders, within certain limitations, without regard to the date of receipt of such orders.

SEC. 2. *Acceptance of orders.* Until 60 days prior to the first day of the month in which delivery is requested, an aluminum controlled material producer shall have the option of determining which authorized controlled material orders or portions thereof he will accept and schedule without regard to dates of receipt of such orders: *Provided,* That the total of the orders accepted does not exceed 85 percent of his production directive covering the product involved for that month, or his proposed production thereof if no production directive has been issued: *And provided further,* That there shall be included in such 85 percent, (a) all orders bearing allotment symbols A through E which have been offered to him, and (b) all NPA directives received by him, including shipments to distributors, independent fabricators and smelters pursuant to such directives. Orders which are not accepted shall be immediately rejected and returned, so that the purchasers may place such orders with other suppliers. Within the period from 45 to 60 days prior to the first day of the month in which delivery is requested, an aluminum controlled material producer shall accept and schedule for production all authorized controlled material orders offered to him, up to the maximum total of his production directive or his proposed production if no directive has been issued. Such orders shall be scheduled for production with precedence given to the orders received first.

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-10198; Filed, Aug. 21, 1951; 4:56 p. m.]

[NPA Order M-5, Direction 2]

M-5—RATED ORDERS FOR ALUMINUM

DIR. 2—RESERVATION OF FOURTH QUARTER PRODUCTION

This direction under NPA Order M-5 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950 as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Certain production reserved.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Supp. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this direction does.* This direction provides for the transition to a full CMP operation in the fourth quarter by reserving certain production of aluminum controlled materials for the acceptance of authorized controlled material orders from producers of consumers durable goods and passenger automobiles.

SEC. 2. *Certain production reserved.* Effective August 20 and up to and including September 17, 1951, aluminum controlled material producers shall reserve a percentage of their production directives or their proposed production if no production directives have been issued during the fourth quarter, 1951, equal to the difference between the percentage of authorized controlled material orders and/or rated orders they are required to accept pursuant to paragraph (b) of section 3 of NPA Order M-5 and 100 percent. Such reserved production shall be used for acceptance of fourth quarter 1951 authorized controlled material orders bearing allotment symbols which are identified by the suffix X (such as V-2X or L-5X), or for unrated orders which are converted into authorized controlled material orders not later than September 10, 1951. In accepting and scheduling such authorized controlled material orders for November 1951 delivery, aluminum controlled material producers may, but are not required to, accept and schedule or reschedule such orders until September 10, 1951, without regard to date of receipt of such orders. From September 10, 1951, to September 17, 1951, aluminum controlled material producers shall accept and schedule for production any such authorized controlled material orders calling for delivery in November 1951 offered to them within the production reserved herein. Such orders shall be scheduled for production with precedence given to the orders received first. With respect to such orders calling for delivery after No-

vember 1951, the provisions of Direction No. 1 to NPA Order M–5 shall apply.

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51–10199; Filed, Aug. 21, 1951; 4:56 p. m.]

[NPA Order M–11, Direction 2]

M–11—COPPER AND COPPER-BASE ALLOYS

DIR. 2—ORDER ACCEPTANCE

This direction under NPA Order M–11 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950 as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Acceptance of order.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this direction does.* This direction preserves the established flow of copper controlled materials and minimizes customer relationship disruptions by permitting copper controlled material producers, until 15 days prior to the expiration of lead times, to accept orders, within certain limitations, without regard to the date of receipt of such orders.

SEC. 2. *Acceptance of orders.* Until 15 days prior to the expiration of lead time, as set forth in Schedule 3 of CMP Regulation No. 1, a copper controlled material producer shall have the option of determining which authorized controlled material orders or portions thereof he will accept and schedule without regard to dates of receipt of such orders: *Provided,* That the total of the orders accepted does not exceed 85 percent of his authorized production of the product involved for that month: *And provided further,* That there shall be included in such 85 percent, (a) all orders bearing allotment symbols A through E which have been offered to him, (b) all NPA directives received by him, (c) proposed shipments to distributors under Direction 1 to NPA Order M–11 or future amendments thereto, or any applicable distributors order, and (d) all proposed shipments of intermediate shapes to other copper controlled material producers as directed by NPA. Orders which are not accepted shall be immediately rejected and returned, so that the purchasers may place such orders with other suppliers. Within the 15 day period immediately preceding the expiration of lead times, a copper controlled material producer shall accept and schedule for production all authorized controlled material orders offered to him, up to the maximum total of his authorized production. Such orders shall be scheduled for production with precedence given to the orders received first.

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51–10200; Filed, Aug. 21, 1951; 4:56 p. m.]

[NPA Order M-11, Direction 3]

M–11—COPPER AND COPPER-BASE ALLOYS

DIR. 3—RESERVATION OF FOURTH QUARTER PRODUCTION

This direction under NPA Order M-11 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950 as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Certain production reserved.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION. 1. *What this direction does.* This direction provides for the transition to a full CMP operation in the fourth quarter by reserving certain production of copper controlled materials for the acceptance of authorized controlled material orders from producers of consumer durable goods and passenger automobiles.

SEC. 2. *Certain production reserved.* Effective August 21, 1951, and up to and including September 17, 1951, copper controlled material producers shall reserve a portion of their monthly production during the fourth quarter 1951 equal to their scheduled production of unrated orders for delivery in September 1951. Such reserved production shall be used for acceptance of fourth quarter 1951 authorized controlled material orders bearing allotment symbols which are identified by the suffix X (such as V–2X or L–5X), or for unrated orders which are converted into authorized controlled material orders not later than September 10, 1951. In accepting and scheduling such authorized controlled material orders for October and November 1951 delivery, copper controlled material producers may, but are not required to, accept and schedule or reschedule such orders until September 10, 1951, without regard to date of receipt of such orders. From September 10, 1951, to September 17, 1951, copper controlled material producers shall accept and schedule for production any such authorized controlled material orders calling for delivery in November 1951 (or later delivery in the case of products with longer than 45-day lead time) offered to them within the production reserved herein. Such orders shall be scheduled for production with precedence given to the orders received first. With respect to such orders calling for delivery after November 1951, the provisions of Direction No. 2 to NPA Order M–11 shall apply (except orders for products having more than a 45-day lead time which are placed prior to September 17, 1951, pursuant to this direction).

This direction shall take effect on August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51–10201; Filed, Aug. 21, 1951; 4:56 p. m.]

[NPA Order M–50 as Amended August 21, 1951]

M–50—ELECTRIC UTILITIES

This order as amended is found necessary and appropriate to promote the national defense and is issued pursuant to the authority of section 101 of the Defense Production Act of 1950 as amended. In the formulation of this order, as amended, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

This amendment affects NPA Order M–50 by amending Appendices A, B, C, D, and E to provide the full fourth quarter 1951 allotments of controlled materials for minor requirements and to authorize advance allotments of such materials for the first three quarters of 1952. As so amended, NPA Order M–50 reads as follows:

ARTICLE I—GENERAL PROVISIONS

Sec.
1. What this order does.
2. Definitions.
3. Applications for adjustment or exception.
4. Records and reports.
5. Communications.
6. Violations.

ARTICLE II—PROCUREMENT OF CONTROLLED MATERIALS GENERALLY

21. Effect on other orders.
22. Restrictions on placement of delivery orders for controlled materials.
23. Conversion of outstanding orders.
24. Use of allotment numbers and certification.

ARTICLE III—MAJOR PLANT ADDITIONS

31. Restrictions on construction.
32. Construction schedules and allotments for major plant additions.
33. Required use of excess inventory.
34. Authorization to use DO rating to obtain products and materials other than controlled materials for major plant additions.

ARTICLE IV—MINOR REQUIREMENTS

Sec.
41. Allotments of controlled materials for minor requirements.
42. Quarterly controlled material quotas for minor requirements.
43. Applications for increased controlled materials quotas.
44. Authorization to use DO ratings to obtain products and materials other than controlled materials for minor requirements.
45. Inventory restrictions.

AUTHORITY: Sections 1 to 45 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071, sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

ARTICLE I—GENERAL PROVISIONS

SECTION 1. *What this order does.* This order provides rules of special application to the procurement and use of materials by electric utilities. It sets forth the procedure by which electric utilities procure materials under the Controlled Materials Plan. It modifies the application to electric utilities of CMP Regulations Nos. 2 and 6, as well as other orders and regulations of NPA.

SEC. 2. *Definitions.* (a) "Electric utility" means any individual, partnership, association, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not, located in the United States, its territories or possessions, supplying, or having facilities built for supplying, electric power, directly or indirectly, for general use by the public or, in the case of a cooperative, for use by its members. If an electric utility is engaged in the supply of electric power and in other activities, this order shall apply only to the procurement and use of materials required directly or indirectly for the supply of electric power.

(b) "DEPA" means the Administrator of Defense Electric Power Administration.

(c) "Maintenance" means the continuation of any plant, facility, or equipment in sound working condition; and "repair" means the restoration of any plant, facility, or equipment to sound working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, failure of parts, or the like. "Maintenance" and "repair" include the replacement of any equipment regardless of its accounting classification, but neither "maintenance" nor "repair" includes the improvement of any plant, facility, or equipment, or the replacement of material which is in sound working condition with material of a better kind, quality, design, or greater capacity.

(d) "Operating supplies" means material, other than fuel, which is consumed in the course of an electric utility's operations, except in maintenance, repair, and plant additions.

(e) "Gross weight of conductor" means, in the case of overhead lines, the weight of conductor as installed, including steel content in the case of conductor containing steel, without deduction for material salvaged; and in the case of underground lines the copper and aluminum content only, without deduction for material salvaged.

(f) "Line construction" means construction of both overhead and underground lines.

(g) "Net material cost" means the cost of all material, including any commodity, equipment, accessory, part, assembly, or product of any kind, incorporated in plant, less the cost of all material removed from plant, priced in accordance with the electric utility's regular accounting practice.

(h) "Plant addition" means the construction or installation of new facilities or the replacement or existing facilities with facilities of greater capacity. Single plant additions may not be combined or subdivided for purposes of affecting their classification as "major plant additions," as defined in this section. To assist in determining whether particular construction constitutes one, or more than one, plant addition, it shall be considered that a single plant addition consists of:

(1) Any construction of related facilities, excluding maintenance and repair work, which is completed during a continuous period of construction, not interrupted by periods of time such as months or years, except where such interruption is caused by uncontrollable forces, such as adverse weather conditions.

(2) In the case of line construction, a single continuous integrated system of lines, with necessary connected substations. (Thus, several sections of line emanating from different points on a utility's system would be several plant additions, not one plant addition.)

(i) "Major plant addition" means any plant addition which involves one or more of the following:

(1) Line construction designed for operation at more than 15 kv where the plant addition requires more than 10,000 pounds gross weight of conductor; or

(2) Line construction designed for operation at 15 kv or less where the plant addition has a net material cost exceeding $50,000; or

(3) Non-line construction necessary for the generation, transmission, and distribution of electric power, where the plant addition has a net material cost over $50,000, excluding construction of facilities for use as a garage, warehouse, operating headquarters, office building, administrative building, or other similar use, unless such facilities are essential for the generation, transmission, and distribution of electric power.

(j) "Approved major plant addition" means any major plant addition in which DEPA has authorized commencement or continuation of construction.

(k) "Minor requirements" means electric utility requirements of controlled materials and other materials for all purposes (including MRO) except major plant additions, and except construction of facilities for use as a garage, warehouse, office building, administrative building, or other similar use, unless such facilities are essential for the generation, transmission, and distribution of electric power.

(l) "Inventory" of any item of material means new or salvaged material in the possession of an electric utility, unless physically incorporated in plant, without regard to its accounting classification, excluding, however:

(1) Any material specifically set aside on April 1, 1951, for use in time of emergency, and replacement thereof; and

(2) Any material set aside on July 17, 1951, for use in an approved major plant addition. Any material set aside for use in any such major plant addition shall be returned to inventory as soon as it becomes apparent that such material will not be used in such major plant addition.

(m) "Practicable minimum working inventory" means the smallest quantity of material from which an electric utility can reasonably supply its services on the basis of its currently scheduled method and rate of operation. In the absence of unusual circumstances, if the ratio of an electric utility's inventory to its currently scheduled operations is substantially greater than the ratio which it found necessary to maintain between inventory and operations during the recent past, its inventory will be considered excessive.

(n) "Permissible inventory" of any item of material means the quantity of such material which is necessary for use in supplying electric service on the basis of an electric utility's scheduled method and rate of operation pursuant to this order during the succeeding 90-day period, or a practicable minimum working inventory, whichever is less.

(o) "Excess inventory" of any item means that part of an electric utility's inventory of such item which exceeds its permissible inventory of such item.

(p) "Authorized construction schedule," "controlled material," "allotment," "Class A product," "Class B product," "delivery order," and "authorized controlled material order" shall have the meanings respectively assigned to such terms in CMP Regulation No. 6.

SEC. 3. *Applications for adjustment or exception.* (a) Any electric utility effected by any provision of this order may file a request for adjustment or exception on the ground that such provision works an undue or exceptional hardship upon such utility not suffered generally by other electric utilities, or that its enforcement against such utility would not be in the interest of national defense or in the public interest. Each request shall be in writing, shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

(b) Each such request shall be addressed to DEPA and, if approved, DEPA will grant an appropriate adjustment or exception.

SEC. 4. *Records and reports.* (a) Each electric utility participating in any transaction covered by this order shall retain in its possession for at least 2 years records of receipts, deliveries, inventories, and use, in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met, including the amounts of quarterly quotas, the method of computation, factual justification, methods of figuring quotas, and charges

against them. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

(b) Each electric utility shall make such further records and submit such further reports to DEPA as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139–139F).

SEC. 5. *Communications.* All communications concerning this order, and CMP Regulation No. 6 as modified by this order, and all requests for forms, shall be addressed to the Defense Electric Power Administration, Department of the Interior, Washington 25, D. C.

SEC. 6. *Violations.* Any person who wilfully violates any provision of this order or any other order or regulation of NPA, or who wilfully conceals a material fact or furnishes false information in the course of operation under this order, is guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person to suspend his privilege of making or receiving further deliveries of materials, or of using facilities under priority or allocation control, and to deprive him of further priorities assistance.

ARTICLE II—PROCUREMENT OF CONTROLLED MATERIALS GENERALLY

SEC. 21. *Effect on other orders.* (a) This order modifies the application of CMP Regulation No. 6 (Construction) to electric utilities and supersedes any conflicting provisions in CMP Regulation No. 6. All of the provisions of CMP Regulation No. 6 apply to electric utilities except as modified by this order.

(b) The provisions of CMP Regulation No. 5 shall not apply to electric utilities. Electric utilities shall procure materials for maintenance, repair, and operating supplies in the manner provided in Article IV of this order.

(c) The provisions of section 45 of this order supersede any conflicting provisions in CMP Regulation No. 2.

SEC. 22. *Restrictions on placement of delivery orders for controlled materials.* No electric utility shall make any allotments of controlled materials unless such allotments are made pursuant to allotments authorized by DEPA.

SEC. 23. *Conversion of outstanding orders.* DO–48 or DO–48 (Minor) rated orders calling for delivery in the third quarter which were placed on or after July 3, 1951, shall be converted into authorized controlled material orders in the manner provided in paragraph (e) of section 19 of CMP Regulation No. 1. Any use of the CMP symbols H–3 or H-4 to order controlled materials or Class A products in the third quarter, including their use for the conversion of outstanding orders, shall constitute a charge against allotments of controlled materials for the third quarter.

SEC. 24. *Use of allotment numbers and certification.* Authorized controlled material orders for major plant additions shall show the allotment number H-3; authorized controlled material orders for minor requirements shall show the allotment number H-4. Such orders shall also show the calendar quarter in which the allotment is valid. For example, a delivery order for controlled materials for a major plant addition placed pursuant to an allotment valid for the third quarter of 1951 shall be designated as follows:

H–3–3Q51.

In addition, each authorized controlled material order shall be certified as follows:

Certified under CMP Regulation No. 6 and NPA Order M-50

This certification shall be signed manually or as provided in NPA Reg. 2. DO–H–3 rated orders and DO–H–4 rated orders shall also be certified and signed in such manner.

ARTICLE III—MAJOR PLANT ADDITIONS

SEC. 31. *Restrictions on construction.* No electric utility may commence construction of any major plant addition or use any controlled material in any major plant addition commenced as of the date of this order without specific authorization from DEPA. DEPA authorization to commence or continue construction does not necessarily mean that DEPA will allot materials in the amounts requested by any electric utility.

SEC. 32. *Construction schedules and allotments for major plant additions.* A construction schedule for each major plant addition will be authorized by DEPA on Form DEPA–7, or as otherwise provided in this section. Construction schedules will be authorized on the basis of information furnished by electric utilities on the Forms DEPA–2, DEPA–3, and DEPA–3S submitted for such major plant addition, or pursuant to application made in such manner as DEPA may hereafter require. Accordingly, for any major plant addition, no electric utility is required to file Form CMP–4C for authorization to commence construction or to request an allotment of controlled materials. Unless otherwise instructed by DEPA, any previous DEPA authorization to apply DO–48 ratings to order any controlled material for delivery in the third quarter, or DEPA authorization to use controlled materials on hand in any major plant addition during the third quarter, shall constitute DEPA authorization of the construction schedule for such major plant addition. Each electric utility which has heretofore received any such authorization is hereby allotted controlled material for the third quarter of 1951 in the quantity of each controlled material designated in such authorization.

SEC. 33. *Required use of excess inventory.* Any electric utility which has an excess inventory of any material shall use such material in approved major plant additions to the extent, and on the earliest date, that such materials are required in any approved major plant addition. In filing applications for allotments of controlled materials for major plant additions, excess inventories shall be taken into account, and in stating its requirements of controlled material for any major plant addition, no electric utility shall include in its requirements any quantity of material which is available in excess inventory.

SEC. 34. *Authorization to use DO rating to obtain products and materials other than controlled materials for major plant additions.* Subject to any special provisions contained in any appendix to this order, a DO–H–3 rating is hereby assigned to each authorized construction schedule for a major plant addition. This rating may be used only to acquire products and materials other than controlled materials in the minimum practicable amounts required and on a date or dates no earlier than required to fulfill such schedule or to replace in inventory products and materials other than controlled materials used to fulfill authorized construction schedules for major plant additions. The DO–H–3 rating shall not be used to obtain any material listed in Schedules I and II of CMP Regulation No. 5, as amended from time to time.

ARTICLE IV—MINOR REQUIREMENTS

SEC. 41. *Allotments of controlled materials for minor requirements.* Subject to the restrictions contained in section 45 of this order, each electric utility is hereby granted an allotment of controlled materials for minor requirements in the amount of its quota for each controlled material as provided in section 42 of this order. No electric utility shall place delivery orders for any controlled material in excess of its quota for such controlled material. Each delivery order for controlled material for minor requirements shall contain the allotment number H–4 as provided in section 24 of this order.

SEC. 42. *Quarterly controlled material quotas for minor requirements.* Unless DEPA has prescribed otherwise, an electric utility may elect to use either a standard quota or an alternative quota, but may not thereafter change from one quota to the other without the express approval of DEPA.

(a) *Standard quota.* An electric utility's standard quota for any controlled material for any calendar quarter is the percentage specified in the applicable appendix to this order of the quantity of such material which was used for minor requirements in the calendar year 1950 (or, if it operated on a fiscal year basis, in its fiscal year ending nearest to December 31, 1950).

(b) *Alternative quota.* An electric utility's alternative quota for any controlled material for any calendar quarter is the percentage specified in the applicable appendix to this order of the quantity of such material which it used in the corresponding calendar quarter of 1950 (or, if it operated on a fiscal year basis, in the corresponding quarter of its fiscal year ending nearest to December 31, 1950).

(c) *Quota where 1950 base inapplicable.* An electric utility not in opera-

tion throughout the year 1950 (calendar or fiscal) shall establish its standard or alternative controlled material quota in accordance with this section by adjusting, in direct proportion, its actual use of such controlled material for part of the year to an annual basis. To determine an alternative quota in such cases, the adjusted annual use may be unequally distributed among 4 quarters to reflect seasonal variations. An electric utility not in operation throughout 1950 shall report to DEPA the controlled material quota which it establishes in accordance with this section. If an electric utility was not in operation during any part of the year 1950 (calendar or fiscal), it may apply to DEPA for a controlled material quota, supplying, in detail, information pertinent to a proper evaluation of its application.

(d) *Special provisions.* DEPA may, by notice addressed to individual electric utilities, prescribe quarterly controlled material quotas for minor requirements greater or less than such utility's standard of alternative quotas.

SEC. 43. *Applications for increased controlled materials quotas.* Each application for an increased controlled material quota shall contain the following information:

(a) Statement of the amount of any special authorization which the utility has received.

(b) Statement of the total amount, in pounds or tons, of each controlled material requested to be authorized for use in minor requirements during each quarter, including the base period quota permitted by the applicable appendix to this order.

(c) Detailed statement of necessity for larger quota.

(d) Any additional information which may be pertinent to proper evaluation of the application.

SEC. 44. *Authorization to use DO ratings to obtain products and materials other than controlled materials for minor requirements*—(a) *Assignment of DO–H–4 ratings.* Subject to any special provisions in any appendix to this order, and subject to the provisions of paragraph (b) of this section, each electric utility is hereby authorized to use a DO–H–4 rating to order products and materials other than controlled materials necessary for use in connection with any minor requirements project which involves the use of any portion of its minor requirements allotment of any controlled material, and to order such additional amounts of products and materials other than controlled materials as are necessary for the operation, maintenance, and repair of its electric system.

(b) *Restrictions on the use of the DO–H–4 rating.* Use of the DO–H–4 rating by electric utilities is subject to the following restrictions:

(1) The DO–H–4 rating may be used only to acquire products and materials other than controlled materials in the minimum practicable amounts required and on a date or dates no earlier than required for the purposes specified in paragraph (a) of this section, or to replace in inventory products and materials other than controlled materials used for such purposes.

(2) No electric utility shall use the DO–H–4 rating to obtain any item costing more than $10,000 without specific authorization by DEPA. Requests for such authorization may be made by letter setting forth, in detail, any information pertinent to proper evaluation of such requests.

(3) No electric utility shall use the DO–H–4 rating to obtain any materials on lease.

(4) No electric utility shall use the DO–H–4 rating to obtain any material listed in Schedules I and II of CMP Regulation No. 5, as amended from time to time.

SEC. 45. *Inventory restrictions.* No electric utility shall place delivery orders for any item of controlled material or other material if its inventory of such item is, or by receipt of such material would become, in excess of a permissible inventory. If an electric utility would be authorized by this section to place a delivery order for a quantity of any item of controlled material or other material less than the minimum sales quantity of such item, it may accept delivery of the minimum sales quantity of such item. The minimum sales quantity of any item of controlled material shall be the quantity designated in Schedule IV of CMP Regulation No. 1.

NOTE: All reporting and record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942 (5 U. S. C. 139–139F).

This order as amended shall take effect of August 21, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

APPENDIX A—ALUMINUM

1. *Definition.* "Aluminum" means aluminum in the forms and shapes indicated in Schedule I of CMP Regulation No. 1.

2. *Aluminum quotas for minor requirements for third quarter.*
Standard quota: 12.5 percent.
Alternative quota: 50.0 percent.

3. *Aluminum quotas for minor requirements for fourth quarter.*
Standard quota: 12.5 percent.
Alternative quota: 50.0 percent.

4. *Advance aluminum quotas for minor requirements for 1952.*
(a) First quarter:
Standard quota: 9.4 percent.
Alternative quota: 37.5 percent.
(b) Second quarter:
Standard quota: 7.5 percent.
Alternative quota: 30.0 percent.
(c) Third quarter:
Standard quota: 6.25 percent.
Alternative quota: 25.0 percent.

5. *Exemption from quantity restrictions.* The quantity restrictions applicable to aluminum shall not apply to any electric utility w ich orders for delivery, in any calendar quarter, a weight of aluminum which does not exceed 1,000 pounds.

6. *Special provisions for ACSR.* Delivery orders for Aluminum Conductor Steel Reinforced shall bear the allotment symbol H–3 for major plant additions and H–4 for minor requirements, plus the appropriate quarter's designation. Orders so placed shall constitute a charge against each utility's aluminum allotment in the amount of the aluminum content of ACSR, but shall not constitute a charge against its steel allotment.

APPENDIX B—COPPER

1. *Definition.* "Copper" means the shapes and forms indicated in Schedule I of CMP Regulation No. 1 under the headings "Copper and copper-base alloy brass mill products," "Copper wire mill products," and "Copper and copper-base alloy foundry products and powder."

2. *Copper quotas for minor requirements for third quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

3. *Copper quotas for minor requirements for fourth quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

4. *Advance copper quotas for minor requirements for 1952.*
(a) First quarter:
Standard quota: 14.1 percent.
Alternative quota: 56.25 percent.
(b) Second quarter:
Standard quota: 11.25 percent.
Alternative quota: 45.0 percent.
(c) Third quarter:
Standard quota: 9.4 percent.
Alternative quota: 37.5 percent.

5. *Exemption from quantity restrictions.* The quantity restrictions applicable to copper shall not apply to any electric utility which orders for delivery in any calendar quarter a quantity of copper which does not exceed 1,000 pounds in the aggregate.

6. *Special provisions for Amerductor and Copperweld conductor.* Delivery orders for Amerductor and Copperweld conductor shall bear the allotment symbol H–3 for major plant additions and H–4 for minor requirements, plus the appropriate quarter's designation. Orders so placed shall constitute a charge against each utility's copper allotment in the amount of the copper content of Amerductor or Copperweld conductor, but shall not constitute a charge against its steel allotment.

APPENDIX C—CARBON STEEL

1. *Definition.* "Carbon steel" means carbon steel, including wrought iron, in the forms and shapes indicated in Schedule I of CMP Regulation No. 1.

2. *Carbon steel quotas for minor requirements for third quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

3. *Carbon steel quotas for fourth quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

4. *Advance carbon steel quotas for minor requirements for 1952.*
(a) First quarter:
Standard quota: 14.1 percent.
Alternative quota: 56.25 percent.
(b) Second quarter:
Standard quota: 11.25 percent.
Alternative quota: 45.0 percent.
(c) Third quarter:
Standard quota: 9.4 percent.
Alternative quota: 37.5 percent.

APPENDIX D—ALLOY STEEL (EXCEPT STAINLESS STEEL)

1. *Definition.* "Alloy steel" means alloy steel in the forms and shapes indicated in Schedule I of CMP Regulation No. 1.

2. *Alloy steel quotas for minor requirements for third quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

3. *Alloy steel quotas for minor requirements for fourth quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.

4. *Advance alloy steel quotas for minor requirements for 1952.*
(a) First quarter:
Standard quota: 14.1 percent.
Alternative quota: 56.25 percent.

(b) Second quarter:
Standard quota: 11.25 percent.
Alternative quota: 45.0 percent.
(c) Third quarter:
Standard quota: 9.4 percent.
Alternative quota: 37.5 percent.

APPENDIX E—STAINLESS STEEL

1. *Definition.* "Stainless steel" means stainless steel in the forms and shapes indicated in Schedule I of CMP Regulation No. 1.
2. *Stainless steel quotas for minor requirements for third quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.
3. *Stainless steel quotas for minor requirements for fourth quarter.*
Standard quota: 18.75 percent.
Alternative quota: 75.0 percent.
4. *Advance stainless steel quotas for minor requirements for 1952.*
(a) First quarter:
Standard quota: 14.1 percent.
Alternative quota: 56.25 percent.
(b) Second quarter:
Standard quota: 11.25 percent.
Alternative quota: 45.0 percent.
(c) Third quarter:
Standard quota: 9.4 percent.
Alternative quota: 37.5 percent.

[F. R. Doc. 51-10202; Filed, Aug. 21, 1951; 4:57 p. m.]

Chapter XVI—Production and Marketing Administration, Department of Agriculture

[Defense Food Order 5]

DFO-5—PROCEDURES OF THE PRODUCTION AND MARKETING ADMINISTRATION PURSUANT TO NPA DELEGATION 14 GOVERNING FILING OF APPLICATIONS FOR AUTHORIZED CONSTRUCTION SCHEDULES, ALLOTMENTS OF CONTROLLED MATERIALS AND DO RATINGS ON OTHER MATERIALS AND EQUIPMENT

It is hereby found and determined that the provisions of this order are necessary and appropriate to promote the national defense; and this order is, therefore, made effective pursuant to the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong., approved September 8, 1950; Pub. Laws 69 and 96, 82d Cong.) and delegations of authority thereunder (Executive Orders Nos. 10161 and 10200 (15 F. R. 6105; 16 F. R. 61); Defense Production Administration Delegation No. 1, as amended (16 F. R. 738, 4594); Defense Food Delegation No. 1 (15 F. R. 6424; 16 F. R. 2446, 3311, 3519); Memorandum of Agreement between Administrator (PMA) and Administrator (NPA), as amended (16 F. R. 3410, 7949); NPA Delegation 10 (16 F. R. 3669); and NPA Delegation 14, as amended (16 F. R. 7628)). Consultation with industry representatives and with representatives of trade associations in advance of the issuance of this order has been rendered impracticable by the fact that the order applies to all food trades and industries.

SUMMARY OF ORDER

This order sets forth the procedures of the Production and Marketing Administration governing the submission of, and actions on, applications for authorized construction schedules and for allotments of controlled materials and priority ratings for other necessary materials and equipment as provided for by NPA Order M-4A and CMP Regulation 6, with respect to the categories of construction for which authority is assigned to the Secretary of Agriculture by NPA Delegation 14. This order also indicates the procedures to be followed in submitting applications for exceptions or adjustments and appeals related thereto.

PROCEDURAL PROVISIONS

Sec.
1. Definitions.
2. Filing applications.
3. Notification of action.
4. Adjustments, exceptions and appeals.
5. Communications.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.

SECTION 1. *Definitions.* (a) "PMA" means the Production and Marketing Administration, United States Department of Agriculture.

(b) "OMF" means the Office of Materials and Facilities, PMA.

(c) "NPA" means the National Production Authority, United States Department of Commerce.

(d) "PMA State Office" means each PMA State Office and each PMA Insular Area Office listed in Appendix A of this order, as from time to time amended.

(e) "NPA Order M-4A" means NPA Order M-4A (16 F. R. 7703) as from time to time amended.

(f) "CMP Reg. 6" means CMP Regulation 6, as amended August 3, 1951 (16 F. R. 7709), and as from time to time further amended.

(g) "NPA Del. 14" means NPA Delegation 14, as amended (16 F. R. 7628), and as from time to time further amended.

(h) "Agricultural category of construction" means the following categories of construction: farm construction, including farmstead construction; food production and processing facilities, and wholesale food distribution facilities, within the limits of the Memorandum of Agreement between Administrator (PMA) and Administrator (NPA), 16 F. R. 3410, as from time to time amended or supplemented, responsibility for which is assigned to the Secretary of Agriculture by NPA Del. 14.

(i) "DFO-4" means Defense Food Order 4 (16 F. R. 7568), as from time to time amended.

(j) The terms "petition" and "appeal" shall have the respective meanings set forth for such terms in DFO-4.

(k) All other terms used in this order that are defined in NPA Order M-4A or CMP Reg. 6 shall have the same meaning as when used in the applicable NPA order or regulation.

SEC. 2. *Filing applications.* (a) Applications for authorized construction schedules, allotments of controlled materials and DO ratings for other materials and equipment, and other documents, prescribed by CMP Reg. 6 for, or relating to, any construction within an agricultural category of construction should be filed by the prime contractor with the PMA State Office in the State or insular area where the construction is to be performed. PMA State Offices will forward all applications and other documents to OMF. With respect to construction to be performed in the District of Columbia, such applications and other documents shall be filed with the Office of Materials and Facilities, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

(b) Applications for allotments of controlled materials to be used during any calendar quarter should be filed not later than sixty (60) days before the beginning of such quarter.

SEC. 3. *Notification of action.* Written notification shall be given each applicant concerning the action taken by PMA with respect to his application.

SEC. 4. *Adjustments, exceptions and appeals.* An application for adjustment or exception as prescribed in section 18 of CMP Reg. 6, arising in connection with an agricultural category of construction, shall be deemed to be a petition and shall be filed in triplicate with OMF. Appeals shall be filed in quadruplicate with OMF. Such petitions and appeals shall be acted on in accordance with the provisions of DFO-4.

SEC. 5. *Communications.* All communications concerning this order, except those relating to adjustments, exceptions or appeals, shall be addressed to the PMA State Office in the State or insular area where the construction is to be performed, or to the Office of Materials and Facilities, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., if the construction is to be performed in the District of Columbia. All communications concerning adjustments, exceptions or appeals shall be addressed directly to the Office of Materials and Facilities.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done in Washington, D. C., this 20th day of August 1951, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] HAROLD K. HILL,
Acting Administrator, Production and Marketing Administration.

APPENDIX A TO DEFENSE FOOD ORDER 5

LIST OF PMA STATE AND INSULAR AREA OFFICES

State of Insular Area and Location of Office

Alabama: Old Post Office Building, Montgomery.

Arizona: Union Investment Company Building, 415 South First Street, Phoenix.

Arkansas: 108½ West Third Street, P. O. Box 2781, Little Rock.
California: 2288 Fulton Street, Berkeley 4.
Colorado: 948 Broadway, Denver 3.
Connecticut: 500 Capitol Avenue, Hartford 6.
Delaware: Courtney and Academy Streets, Newark.
Florida: Seagle Building, Gainesville.
Georgia: Old Post Office Building, Athens.
Idaho: P. O. Box 4068, 1524 Vista Street, Boise.
Illinois: Standard Office Building, 124–132 South Water Street, Decatur 12.
Indiana: Fifth Floor, Illinois Street Postal Building, Indianapolis 9.
Iowa: Tenth and Mulberry Streets, Onthank Building, Des Moines 7.
Kansas: 1122 Moro Street, Manhattan.
Kentucky: Mill and Maxwell Streets, Lexington 29.
Louisiana: P. O. Box 8597 University Station, Baton Rouge.
Maine: University of Maine, Orono.
Maryland: P. O. Box 38, University of Maryland, College Park.
Massachusetts: University of Massachusetts, Amherst.
Michigan: Cahill Building, 200 North Capitol Avenue, Lansing 4.
Minnesota: 210 Main Post Office Building, St. Paul 1.
Mississippi: P. O. Box 1251, Masonic Building, 1130 West Capitol Street, Jackson 5.
Missouri: I. O. O. F. Building, Tenth and Walnut Streets, Columbia.
Montana: P. O. Box 149, 211 North Grand Street, Bozeman.
Nebraska: Third Floor, Trust Building, Lincoln 1.
Nevada: 818 South Virginia Street, Reno.
New Hampshire: 29 Main Street, Durham.
New Jersey: College Farm, New Brunswick.
New Mexico: State College.
New York: Byrne Building, 236 West Genesee Street, Syracuse 2.
North Carolina: State College Station, Raleigh.
North Dakota: 304 de Lendrecie Building, P. O. Box 2017, Fargo.
Ohio: 202 Old Federal Building, Columbus 15.
Oklahoma: Etherton Building, Sixth and Main Streets, Stillwater.
Oregon: 515 Southwest Tenth Avenue, Portland 5.
Pennsylvania: 928 North Third Street, Harrisburg.
Rhode Island: 71 Jackson Street, Providence 3.
South Carolina: P. O. Box 660, 1615 Hampton Street, Columbia 33.
South Dakota: 56 Third Street Southeast, Huron.
Tennessee: 129 Eighth Avenue, North Nashville 3.
Texas: AAA Building, College Station.
Utah: 222 Southwest Temple Street, Old Terminal Building, Salt Lake City 1.
Vermont: 102 Adams Street, Burlington 14.
Virginia: 609 East Main Street, Richmond 19.
Washington: Room 301, Hutton Building South 9, Washington Street, Spokane 8.
West Virginia: 144 Pleasant Street, Morgantown.
Wisconsin: 117 Monona Avenue, Madison 3.
Wyoming: P. O. Box 1211, 345 East Second Street, Casper.
Alaska: University of Alaska, College, Alaska.
Hawaii: Hawaiian Area Office, 303 Dillingham Building, Honolulu 16, T. H.
Puerto Rico and Virgin Islands: Caribbean Area Office, P. O. Box 4349, San Juan 21, P. R.

[F. R. Doc. 51–10244; Filed, Aug. 22, 1951; 11:13 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 745]

UTAH

WITHDRAWING PUBLIC LANDS AND RESERVED MINERALS IN PATENTED LANDS FOR USE OF THE UNITED STATES ATOMIC ENERGY COMMISSION

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

The public lands and the minerals reserved to the United States in patented lands in the following-described areas in Utah are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved for the use of the United States Atomic Energy Commission:

SALT LAKE MERIDIAN

T. 22 S., R. 21 E.,
Secs. 25 to 28 inclusive, and secs. 31 to 36 inclusive.
T. 23 S., R. 21 E.,
Secs. 1 to 6 inclusive, and secs. 8 to 12 inclusive;
Sec. 15.
T. 22 S., R. 22 E.,
Secs. 19 to 36 inclusive.
T. 23 S., R. 22 E.,
Secs. 1 to 8 inclusive.
T. 22 S., R. 23 E.,
Secs. 19 and 20;
Secs. 27 to 36 inclusive.
T. 23 S., R. 23 E.,
Secs. 1 to 6 inclusive.

The areas described, including both public and non-public lands, aggregate 40,995.31 acres.

Any tract or tracts of land within the above-described areas to which valid claims have attached under the public-land laws prior to the date of this order, are excluded from the reservation hereby made: *Provided, however,* That upon the abandonment or extinguishment of such claims for any cause, the reservation shall immediately become effective as to such tract or tracts and the minerals therein.

The reservation made by this order shall be subject to existing withdrawals affecting any of the lands.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 16, 1951.

[F. R. Doc. 51–10067; Filed, Aug. 22, 1951; 8:48 a. m.]

[Public Land Order 746]

ALASKA

RESERVING CERTAIN LAND FOR THE USE OF THE ALASKA RAILROAD

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910, 36 Stat. 847 (43 U. S. C. 141), and section 1 of the act of March 12, 1914, 38 Stat. 305, 307 (48 U. S. C. 304), and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

The following-described tract of public land in Alaska is hereby withdrawn from settlement, location, sale, and entry, and other forms of disposal, and reserved for the use of the Alaska Railroad for railroad purposes:

Lot 2 block 3 Anchorage Town Site.

Executive Order No. 4258 of July 1, 1925, which reserved the above-described tract of land for the use of the Alaska Road Commission in the construction of certain military and post roads, bridges, and trails, is hereby revoked.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 17, 1951.

[F. R. Doc. 51–10068; Filed, Aug. 22, 1951; 8:48 a. m.]

[Public Land Order 747]

ARIZONA

CORRECTING THE LAND DESCRIPTION IN PUBLIC LAND ORDER NO. 680 OF OCTOBER 27, 1950

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, the land description in Public Land Order No. 680 of October 27, 1950, revoking Public Land Order No. 197 of December 20, 1943, and revoking in part Public Land Order No. 97 of March 16, 1943, so far as such description relates to lands in sec. 15, T. 7 S., R. 12 W., is hereby corrected to read as follows:

GILA AND SALT RIVER MERIDIAN

T. 7 S., R. 12 W.,
Sec. 15, S½NE¼ and S½.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 17, 1951.

[F. R. Doc. 51–10069; Filed, Aug. 22, 1951; 8:49 a. m.]

[Public Land Order 748]

ALASKA

CORRECTING THE LAND DESCRIPTION IN PUBLIC LAND ORDER NO. 690 OF NOVEMBER 22, 1950

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, the land description in Public Land Order No. 690 of November 22, 1950, which reserved lands for the use of the Department of the Air Force for military purposes, so far as such description relates to lands in sec. 32, T. 1 N., R. 1 E., Fairbanks Meridian, is hereby corrected to read as follows:

FAIRBANKS MERIDIAN

T. 1 N., R. 1 E.,
Sec. 32, E½SW¼ and SE¼.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 17, 1951.

[F. R. Doc. 51–10070; Filed, Aug. 22, 1951; 8:49 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 9898]

PART 11—INDUSTRIAL RADIO SERVICES

PART 16—LAND TRANSPORTATION RADIO SERVICES

NEW POLICY ON LICENSING OF RELAY STATIONS IN THE INDUSTRIAL AND LAND TRANSPORTATION RADIO SERVICES

On February 17, 1951, the Commission adopted a notice of proposed rule making (Docket 9898) with respect to a revision of Part 11, Rules Governing Industrial Radio Services, and Part 16, Rules Governing Land Transportation Radio Services, to permit licensing of mobile relay stations in these services in certain situations where it appeared that no other satisfactory solution to an applicant's communication problem was possible. The period in which interested parties were afforded an opportunity to submit comments has expired and statements have been received from the following persons:

(a) Industrial group:
1. National Committee for Utilities Radio.
2. National Rural Electric Cooperative Association.
3. Rural Electrification Administration.
4. Central Committee for Radio Facilities, American Petroleum Institute.
5. National Forest Industries Communications.
6. Pineapple Growers Association.
7. Hawaiian Sugar Planters Association.

(b) Transportation group:
1. Association of American Railroads.
2. American Shortline Railroad Association.
3. Southern Railway Co.
4. New York Central Railroad Co.
5. Chicago, South Shore & Southbend Railroad.
6. National Bus Communications, Inc.
7. Consolidated Bus Lines, Inc.

(c) Manufacturing group:
1. General Electric Co.
2. Motorola, Inc.

While the comments are very helpful in many respects, it has become evident that it is not desirable for all parts of the proposal to be finalized at this time. Further, the comments raise an issue which goes beyond the scope of the original proposal, the proper disposition of which requires that all interested persons be given an opportunity to participate in a public hearing. There follows a detailed discussion and disposition of each of the principal issues involved.

1. *Eligibility.* As proposed, the rules restricted eligibility for mobile relay station authorizations to those cases where an applicant could show a substantial requirement for extended-range mobile-to-mobile communication greater than that obtainable by direct car-to-car communication on the same frequency. No distinction was made between the various services in this respect. While this met with the approval of most of those who filed, the railroads pointed out that although this concept may fit the area type of operation where mobile units operate generally in a circle about one or more base stations, it does not recognize the peculiar nature of railroad operations. The area over which railroad mobile units operate generally consists of a comparatively narrow strip extending in both directions from a base station located on or near the railroad right-of-way. Most of the communications are from point-to-train and in many cases these points, which generally are located at wayside offices, are at such distances from each other that the service areas of the base stations located thereat do not cover all the right-of-way between them. In circumstances such as these, it is not feasible to establish and man an intermediate base station, but it is practicable to locate an automatic unattended relay station at an intermediate point so as to extend the communication range of the base station. The nature of railroad operating practices is such that there is very little need for train-to-train communications when they are separated by a considerable distance.

The Commission is of the opinion that there may be such a difference between the use of radio by railroads and its use by many industrial operations to warrant, perhaps, a different approach. We do not believe, however, that the problem is limited to railroad operations. There are other users of radio who have need for a "ribbon" as against an "area" type of communications system. Further, it is not clear that the "ribbon" versus "area" type of operation would in and of itself establish a reasonable basis for different eligibility standards. To change the standard of eligibility for railroads, therefore, without giving others an opportunity to be heard on their particular needs would appear to be an arbitrary action based on inadequate information. On the other hand, there are many persons who have a need for mobile relay stations in their current operations and who can operate under the conditions as proposed. We do not believe it would be in the public interest to have such persons await a determination of this further issue. Accordingly, we are finalizing the eligibility portion of the rules as proposed and we are designating for hearing the question of expanding the concept to include extended-range point-to-mobile communications via mobile relay stations.

2. *Requirement for a coded signal device.* In order to protect other stations operating within the service area of a mobile relay station from undue interference that might be caused by frequent activation of the relay transmitter by undesired signals, the rules proposed that all mobile relay stations be so designed and installed that they normally would be activated only by means of a coded signal device. Since there undoubtedly are cases where the possibility of such interference is remote, it was believed that the coded signal requirement could be waived in particular cases. Accordingly, the Commission proposed that "* * * when the relay station is activated by signals received only on frequencies above 50 Mc, and when the applicant makes a satisfactory showing that his proposed station location is in an area normally free of undesired signals on frequencies which would activate the mobile relay station * * *" a waiver might be granted. The Commission invited comment on what factual information should be considered a satisfactory showing for waiver. The comments, generally, were to the effect that the language of the proposed rules was adequate, considering the provision for cancellation "* * * after ninety days notice if it later develops that the mobile relay station is in fact frequently activated by undesired signals and thereby causes harmful interference to other licensees." This ninety day cancellation provision is intended only as a means to end interference, to be applied in all cases where it occurs, irrespective of whether or not a coded signal device is used. To bring it into play would, as a practical matter, generally require much more than ninety days, during which time the effectiveness of the radio system of some third person operating within the service area of the relay station might be seriously jeopardized. It also is believed that the majority of serious interference problems will occur between stations located less than seventy-five miles apart. Until more experience is gained through the operation of Mobile Relay Stations, the Commission is not in a position to establish and administer flexible standards.

For these reasons we have substituted for the general standard originally proposed, the more specific requirement that, to obtain a waiver an applicant for a mobile relay station must determine that there are no other persons having equal rights to the frequency in question operating on the applicant's proposed mobile station frequency within a radius of seventy-five miles of the proposed mobile relay station location. To accommodate those special situations where there may be licensees operating within this seventy-five mile radius on the same frequency who desire to coordinate activities, as in the case of many rural electric cooperatives, compliance with this section may be effectuated by submitting the written consent of each licensee within the area confirming the fact that they have no objection to the proposed operation. In any event, however, should interference in fact develop and complaint be received, the waiver may be cancelled after ninety days notice.

3. *Use of mobile service frequencies by operational fixed (control) stations.* The proposed rules would have permitted operational fixed (control) stations in a mobile relay system to operate on frequencies allocated to the mobile service. At the present time, all such stations licensed under the provisions of Parts 11 and 16 must employ frequencies available for fixed service operations. The use of mobile frequencies for control purposes, while convenient, is not essential to the satisfactory functioning of radio systems employing mobile relay stations. A re-examination of the proposal, therefore, leads us to the conclusion that the effect of its adoption would be to discriminate in favor of those who could qualify for mobile relay stations as against users of conventional systems. Furthermore, while the operation of control circuits on mobile service frequencies may not be essential to mobile relaying where such systems are limited to extended-range

mobile-to-mobile communications, it may be of importance in the type of operation proposed by the railroads on which hearing is to be held, i. e., whether or not mobile relay stations should be authorized to extend the range of point-to-mobile communications. Accordingly, although no comments were filed on the question, we believe it is more appropriate to delete this aspect of the proposal from the final rules and include it as an issue in the aforementioned hearing. Pending a final determination, all operational fixed (control) stations will be governed by the pertinent provisions of Parts 11 and 16 currently in effect.

4. *Establishment of 47 Mc as the minimum "triggering" frequency.* The notice of proposed rule making set 47 Mc as a compromise minimum frequency for "triggering" mobile relay stations. Since there are no mobile service frequencies above 47 Mc sub-allocated to the Intercity Bus Service, the net effect of the limitation is to preclude the use of such stations in this service. To this, National Bus Communications, Inc., and Consolidated Bus Lines, Inc., objected. The Commission recognizes that this figure does not make complete provision for all otherwise eligible persons who may wish to establish a mobile relay station, and that therefore it may cause hardship in certain cases. However, all persons are agreed that some line of demarcation is necessary since indiscriminate use of all mobile service frequencies for this purpose will intensify the problem of interference.

Furthermore, the spokesmen for the bus industry do not claim that there is any present need for mobile relay stations in their service. They state, however, that as the service develops and radio is used over more isolated routes, the use of such stations then will be indispensable for extending the bus-to-bus communication range in such areas. In view of all these factors, therefore, the Commission is rejecting the protests of the bus operators at this time. Perhaps by the time the bus operators are ready to extend their use of radio so that the mobile relay stations are of immediate and not prospective importance, sufficient experience may be gained from operations in other services to indicate that the "triggering" frequency can be lowered safely.

5. *Petition of the New York Central Railroad.* On May 9, 1950, the New York Central Railroad Company filed a petition requesting that Part 16 of the Commission's rules be amended to permit the railroads to operate a relay system on frequencies allocated for mobile service use to extend the range of mobile-to-mobile, base-to-mobile, and base-to-base communications. The rules, as adopted, permit the use of mobile relay stations to extend the range of mobile-to-mobile communications. To this extent, therefore, the petition is granted. The question of permitting use of mobile relay stations to extend the range of base-to-mobile communications has been set for hearing as indicated above.

There remains the question of the use of mobile relay stations to extend the range between Base Stations. Stated in this manner, the proposition seems to be reasonable and, in fact, the railroad service rules permit communication between base stations on a non-interference basis to the mobile service. The difficulty with the proposed system, however, is found in the fact that the stations involved would not be base stations. The stations from which the communications originate would be operational fixed (control) stations and the station relaying the message would be a fixed relay station. Thus, in effect, the New York Central is proposing two radio systems, each utilizing two mobile service frequencies. The first system involves communications with rolling stock, in which case, under present rules, point-to-point communications are permitted on a secondary basis. The second system, however, would be designed exclusively for point-to-point communication. This is contrary to all previous determinations by the Commission of the manner in which the various frequencies may be utilized. Because certain frequencies are peculiarly adapted to mobile operations, their prime usage is limited to such purposes. Where a radio system is designed for point-to-point operations, it should utilize frequencies allocated to the fixed service. Until the vast demand for mobile communications has been satisfied, it would appear that the public interest demands that this line of demarcation be maintained. Accordingly, in this respect the petition is denied.

6. *Interconnection of a multiplicity of mobile relay stations in large systems.* The proposed rules provided that any necessary circuits for interconnection of two or more mobile relay stations in the same radio system should be provided by means of wire lines or fixed service frequencies. The purpose of this restriction was to limit each radio system employing one or more mobile relay stations to a total of two mobile service frequencies regardless of the number of mobile relay stations installed. Motorola, Incorporated, recommended that this part of the proposal not be adopted because there are some situations in which the interconnection cannot be provided economically unless VHF mobile service frequencies are used. This recommendation is being rejected for the following reasons:

a. The interconnection facilities would require assignment of additional mobile service frequencies to each licensee of such a system.

b. It is difficult to see how the Commission could authorize use of VHF mobile service frequencies for point-to-point interconnection of mobile relay stations and continue to deny use of such frequencies for a host of other more or less meritorious fixed service purposes.

c. Use of VHF mobile service frequencies for interconnection of mobile relay stations is in general a convenience rather than a necessity. Fixed service frequencies are available on a nationwide basis. The only deterrent to their use in most cases is one of cost. In the absence of more complete information than this record discloses, cost alone is considered not to be sufficiently a factor to justify use of VHF mobile service frequencies for such interconnection purposes.

7. *General considerations.* For clarification purposes the definition of a mobile relay station has been revised. It is believed that this change is desirable since the definition as originally proposed appeared to many persons to prohibit all transmission of mobile service messages between operational fixed (control) stations and mobile stations via a mobile relay station, a result not intended.

It will be noted that while the section concerning operation of mobile relay stations in the industrial radio services has been placed in Subpart A of Part 11 as a matter of general information, it has been made a part of Subpart H, the railroad radio service, in Part 16, rules governing land transportation radio services. The reason for this rearrangement is found in the fact that by reason of the requirement of 47Mc as the minimum "triggering" frequency and the specific exclusion of the taxicab and automobile emergency services, the section is of interest only to the railroad service.

No special distinction will be made between attended and unattended mobile relay stations.

The operation of mobile relay stations requires the assignment of two mobile service frequencies per radio system. In this connection, comment was requested as to whether or not such radio systems should be permitted to operate on two frequencies at all times or whether the two-frequency operation should be confined to those periods when the mobile relay station is functioning as such. The comments stated that because of the technical considerations involved in switching from single to two-frequency operation and vice versa, the two-frequency operation should be permitted at all times. In this we concur.

Accordingly, *It is ordered,* This 15th day of August 1951, that Part 11, rules governing industrial radio services, and Part 16, rules governing land transportation radio services, are amended as set forth below, effective the 24th day of September 1951.

It is further ordered, That the questions of extended-range point-to-mobile communications and the use of mobile frequencies for operational fixed (control) stations in mobile relay systems, as discussed above, are designated for hearing as set forth in the further notice of proposed rule making issued concurrently herewith.[1]

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082, as amended; 47 U. S. C. 301, 303)

Released: August 15, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

1. Changes in Part 11, industrial radio services:

a. In § 11.3 *Definition of terms,* delete present paragraphs (i) and (j), which

[1] See F. R. Doc. 51-10026, in the Proposed Rule Making Section, *infra.*

now define "Relay Station" and "Repeater Station", respectively, and substitute the following:

(i) *Fixed relay station.* An operational fixed station in the fixed service, established to receive radio signals directed to it from any source and to retransmit them automatically on a fixed service frequency for reception at one or more fixed points.

(j) *Mobile relay station.* A base station in the mobile service, authorized primarily to retransmit automatically on a mobile service frequency communications originated by mobile stations.

b. Add § 11.7 as follows:

§ 11.7 *Relay stations*—(a) *General.* Relay stations are used to extend the range of communication between another radio station and the point with which it is desired to communicate. For the purposes of the rules in this part, there are two types of relay stations: Mobile relay stations and fixed relay stations. For definitions see § 11.3.

(b) *Mobile relay stations.* The policies governing authorization and operation of this type of relay station are as follows:

(1) Each application for a new mobile relay station authorization shall be accompanied by a satisfactory showing that the applicant has a substantial requirement for prompt mobile-to-mobile communication over ranges greater than can be realized consistently by direct communication on the frequency presently assigned, or, in the case of a proposed new radio system, on any available frequency. (Measurements obtained by use of low-power transmitters of the hand-carried or pack-carried type will not be accepted in satisfaction of the requirements of this subparagraph.)

(2) A mobile relay station may be authorized to operate on any mobile service frequency available for assignment to base stations.

(3) Each mobile relay station shall be so designed and installed that it normally will be activated only by means of a coded signal or signals or such other means as will effectively prevent its activation by undesired signals: *Provided, however,* That this requirement may be waived when both of the following conditions are met:

(i) The radio system is shown to be so designated that the mobile relay station normally is capable of activation only by signals received on frequencies above 50 Mc; and

(ii) The applicant for a mobile relay station authorization either verifies that no person having equal rights to the frequency in question is operating on the mobile station frequency within a radius of seventy-five miles of the proposed mobile relay station location, or, alternatively, obtains and submits with the application the written consent of each such person to installation of the proposed mobile relay station and its operation on a regular basis for a trial period of one year from the date a station license is granted by the Commission. In any event, a waiver granted under the provisions of this subparagraph may be cancelled after ninety days notice by the Commission if it develops that the mobile relay station is in fact consistently activated by undesired signals and thereby causes harmful interference to other licensees.

(4) Each mobile relay station shall be so designed and installed that it will be deactivated automatically when its associated receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(5) Each mobile relay station required by the terms of subparagraph (3) of this paragraph to be activated by a coded signal shall be so designed and installed that it will be deactivated upon receipt or cessation of a coded signal or signals and, in addition, shall be provided with an automatic time-delay or clock device which will deactivate the station not more than three minutes after its activation.

(6) A mobile station associated with one or more mobile relay stations may be authorized to operate only on a mobile service frequency above 47.0 Mc which is available for assignment to mobile stations.

(7) An operational fixed (control) station associated with one or more mobile relay stations will be authorized to operate only on a frequency available for assignment to stations operating in the fixed service.

(8) In any radio system which employs more than one mobile relay station, where there is a requirement that stations in the vicinity of one mobile relay station be able to communicate automatically with stations in the vicinity of other mobile relay stations, any necessary circuits for interconnection of the mobile relay stations shall be provided by means of wire lines or radio stations operating on fixed service frequencies.

(9) Mobile relay stations will not be authorized in the low power industrial radio service.

(c) *Fixed relay stations.* Fixed relay stations will be authorized to operate only on frequencies available for use by operational fixed stations.

c. In § 11.58 *Supplemental information required with applications for control, repeater, or relay stations,* delete the word "repeater" from the title and text of this section.

d. In §§ 11.254, 11.304, 11.354, 11.404, 11.454, and 11.504 *frequencies available for base, mobile and operational fixed stations,* delete present subparagraph (3) of paragraph (b) from each of these sections, as shown in Rule Amendment 11–2 published in the FEDERAL REGISTER June 30, 1950 (15 F. R. 4195), and substitute the following:

(3) Fixed relay stations may be used to provide two automatic retransmissions of a mobile service message. Additional automatic retransmissions on these frequencies by means of such stations is prohibited.

2. Changes in Part 16, Land Transportation Radio Services:

a. In § 16.6 *Definition of terms,* delete present paragraphs (p) and (q), which now define "relay station" and "repeater station," respectively, and substitute the following:

(p) *Fixed relay station.* An operation in the fixed service, established to receive radio signals directed to it from any source and to retransmit them automatically on a fixed service frequency for reception at one or more fixed points.

(q) *Mobile relay station.* A base station in the mobile service, authorized primarily to retransmit automatically on a mobile service frequency communications originated by mobile stations. (Authorized in the railroad radio service only.)

b. Add § 16.355 as follows:

§ 16.355 *Relay stations*—(a) *General.* Relay stations are used to extend the range of communication between another radio station and the point with which it is desired to communicate. For the purposes of the rules in this part, there are two types of relay stations: Mobile relay stations and fixed relay stations. For definitions, see § 16.6.

(b) *Mobile relay stations.* The policies governing authorization and operation of this type of relay station are as follows:

(1) Each application for a new mobile relay station authorization shall be accompanied by a satisfactory showing that the applicant has a substantial requirement for prompt mobile-to-mobile communication over ranges greater than can be realized consistently by direct communication on the frequency presently assigned, or in the case of a proposed new radio system, on any available frequency. (Except for radio systems in railroad yard or terminal areas, range measurements obtained by use of low-power transmitters of the hand-carried or pack-carried type will not be accepted in satisfaction of the requirements of this subparagraph.)

(2) A mobile relay station may be authorized to operate on any mobile service frequency available for assignment to base stations.

(3) Each mobile relay station shall be so designed and installed that it normally will be activated only by means of a coded signal or signals or such other means as will effectively prevent its activation by undesired signals: *Provided, however,* That this requirement may be waived when both of the following conditions are met:

(i) The radio system is shown to be so designed that the mobile relay station normally is capable of activation only by signals received on frequencies above 50 Mc; and

(ii) The applicant for a mobile relay station authorization either verifies that no person having equal rights to the frequency in question is operating on the mobile relay station frequency within a radius of seventy-five miles of the

proposed mobile relay station location or, alternatively, obtains and submits with the application the written consent of each such person to installation of the proposed mobile relay station and its operation on a regular basis for a trial period of one year from the date a station license is granted by the Commission.

In any event, a waiver granted under the provisions of this subparagraph may be cancelled after ninety days notice by the Commission if it develops that the mobile relay station is, in fact, consistently activated by undesired signals and thereby causes harmful interference to other licensees.

(4) Each mobile relay station shall be so designed and installed that it will be deactivated automatically when its associated receiver or receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(5) Each mobile relay station required by the terms of subparagraph (3) of this paragraph to be activated by a coded signal shall be so designed and installed that it will be deactivated upon receipt or cessation of a coded signal or signals, and, in addition, shall be provided with an automatic time-delay or clock device which will deactivate the station not more than three minutes after its activation.

(6) A mobile station associated with one or more mobile relay stations may be authorized to operate on any available mobile service frequency.

(7) An operational fixed (control) station associated with one or more mobile relay stations will be authorized to operate only on a frequency available for assignment to stations operating in the fixed service.

(8) In any radio system which employs more than one mobile relay station, where there is a requirement that stations in the vicinity of one mobile relay station be able to communicate automatically with stations in the vicinity of other mobile relay stations, any necessary circuits for interconnection of the mobile relay stations shall be provided by means of wire lines or radio stations operating on fixed service frequencies.

(c) *Fixed relay stations.* Fixed relay stations will be authorized to operate only on frequencies available for use by operational fixed stations.

c. In § 16.58 *Supplemental information required with applications for control, repeater, or relay stations,* delete the word, "repeater" from the title and text of this section.

[F. R. Doc. 51-10029; Filed, Aug. 21, 1951; 8:53 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Ex Parte No. MC-43]

PART 207—LEASE AND INTERCHANGE OF VEHICLES

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Upon further consideration of the record in the above-entitled proceeding, and upon consideration of telegraphic request of H. Nathan Swaim, Judge of the United States Court of Appeals for the Seventh Circuit, for postponement of the effective date of the order to allow time to assemble a three-judge court to hear and decide suit to enjoin and set aside the Commission's order herein:

It is ordered, That the order entered in said proceeding on May 8, 1951, which was subsequently modified to become effective September 1, 1951, be, and it is hereby, further modified to become effective November 1, 1951.

Dated at Washington, D. C., this 17th day of August A. D., 1951.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10087; Filed, Aug. 22, 1951; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR Part 40]

EXCESS PROFITS TAXES: TAXABLE YEARS ENDING AFTER JUNE 30, 1950

NOTICE OF PROPOSED RULE MAKING

Correction

In Federal Register Document 51-9833, appearing at page 8115 of the issue for Thursday, August 16, 1951, the following changes should be made:

1. Paragraph (b) of § 40.461-7 should read as follows:

(b) *Application of Part II in certain types of transactions described in section 461 (a) (1) (E).* In the case of a Part II transaction described in section 461 (a) (1) (E) which involves—

(1) A transfer by a component corporation to an acquiring corporation which was not created incident to the transaction, or

(2) A transfer to an acquiring corporation, whether or not the acquiring corporation was created incident to the transaction, of properties by more than one component corporation, where one or more of such component corporations transferred less than substantially all of its properties,

the acquiring corporation shall compute its excess profits credit under Part II as though each component corporation in any such transaction which transferred less than substantially all of its properties had transferred those properties to a corporation created incident to the transaction in a transaction described in section 461 (a) (1) (E) and such corporation had immediately thereafter transferred all of such properties to the acquiring corporation in a Part II transaction other than a transaction described in section 461 (a) (1) (E). See section 461 (e), relating to component corporations which were acquiring corporations in a previous Part II transaction.

2. The introductory paragraph of § 40.462-10 (a) (2) should read as follows:

(2) Except to the extent duplication of experience occurs, no adjustment is necessary under section 462 (j) (1) if, in view of all the circumstances of the transaction in which the stock of the component corporation is acquired, it is determined that no assets have left the group as a result of the transaction, and if it is established to the satisfaction of the Commissioner that the transaction is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income or excess profits taxes; for example—

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 925]

[Docket No. AO-226-A1]

HANDLING OF MILK IN PUGET SOUND, WASHINGTON, MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER AMENDING THE ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Seattle, Washington, on August 7-8, 1951, pursuant to notice thereof issued on July 27, 1951 (16 F. R. 7463).

The material issues of record related to:

(1) Revision of the price differentials (over basic formula price) for Class I milk;

(2) Elimination of the portion of the marketing area lying within Pacific County, Washington, from coverage by the order; and

(3) The emergency character of marketing conditions and the need for immediate change in the order provisions.

Issues numbered (1) and (3) above are covered by the findings and conclusions made in this decision. It is determined that emergency action is required on such issues. It is concluded that the remaining issue should not be decided under emergency procedure and should not delay action on the matters included under issue (1). Decision on issue (2) therefore is reserved to a later date.

Rulings on proposed findings and conclusions. Only one of the briefs filed on behalf of producers or handlers contained proposed findings and conclusions with respect to issues Nos. (1) and (3). To the extent that the findings and conclusions of this decision are at variance with such proposed findings and conclusions, the request to make such findings and conclusions is hereby denied.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

(1) The price differential added to the basic formula price for Class I milk should be revised to provide for (i) a temporary increase in the differential, and (ii) the adoption of a "contraseasonal" price adjustment.

From the information submitted at the hearing, milk production available to supply the Puget Sound marketing area has been on the decline for more than a year. This decline has been accompanied by a decrease in the number of producers since June 1950. Recent drought conditions have increased the supply problem for the next several months to emergency proportions. Although substantial numbers of farmers in the supply area produce manufacturing grade milk, relatively few are making the necessary outlays to convert to the production of Grade A milk. This could indicate that the differential over the basic formula price is insufficient to procure necessary supplies of milk for the market area.

Past experience discloses a production pattern for the market under which there is a decline seasonally by approximately 60 percent between June and November. June production this year was 8 percent below the level of June 1950. This indicates a total Grade A supply available next for November of slightly more than 33,000,000 pounds, which is less than the known level of Class I sales. If the supply should decrease to such level in November, the market would be approximately 10 percent short of meeting its needs for Grade A milk.

Pasture, hay and feed conditions have been adversely affected by an unprecedented drought during the past four months. Total precipitation in the area was 2.26 inches in this period, which is only 36 percent of normal and the lowest recorded since 1900. Temperatures have been somewhat above normal in the same months. Home grown hay supplies are estimated at 78 percent of last year's total while supplies of silage are 92 percent of the amount made last year. Pastures for the State of Washington were only 79 percent of normal in July. In the Puget Sound milkshed, however, pastures had deteriorated badly by July 1 due to the lack of rain and approached 65 percent of normal at that date. This condition in the milkshed has been aggravated further by extremely dry weather since July 1. Such pasture conditions are in sharp contract to those of the midwest section of the country where pastures are rated good to excellent and to the good to excellent rating for the Puget Sound milkshed in July 1950. Estimates of hay production indicate a record crop for the Nation as a whole, but a somewhat smaller crop in the western States, and particularly in western Washington, as compared with last year. Puget Sound area producers will begin supplementary feeding approximately 54 days earlier this year than in 1950. The above feed production conditions are prevalent in all segments of the milk supply area and will necessitate increased expenditures by producers for purchased feed originating east of the Cascade Mountains if production is to be maintained this fall at a level adequate to meet market requirements and if milk cows are to be kept in proper condition to give full production in 1952. Prices of the principal feed supplements such as oats, barley and millfeed have advanced since a year ago.

Farm labor rates in the supply area have increased since last year. Present wage levels for hired farm help in the State of Washington are the highest for the United States, being $220.00 per month "with house" as compared with $146.00 as the United States average. Figures for Oregon and California are $199.00 and $208.00, respectively. When compared with last year's level the increase in Washington has been higher than for Oregon, California or the United States as a whole. Wages "with board" show a highly similar trend.

Present business conditions indicate a continued strong demand for Grade A milk supplies. Purchasing power in the marketing area has increased since a year ago. Department store sales have increased 15 percent over last year as compared with 9 percent nationally. Non-agricultural employment in Washington as of May was 8.3 percent above May 1950 as compared with 4 percent for the nation.

Facing the above conditions ten producers' associations in the area have proposed an increase in the price differential for Class I milk of 42 cents (to $1.87) to be accompanied by (a) a specific "floor" under the price to be effective through March 1952, (b) a supply-demand adjustment to be applied in the determination of the effective price differential, and (c) a "contraseasonal" price provision to prevent price increases in the months of seasonally high production and price reductions in the months when production usually is at the lowest level for the year. It is concluded on the basis of the evidence that the Class I price differential should be increased from $1.45 to $1.87 per hundredweight of milk until the end of March 1952. This change should assist producers to meet higher out-of-pocket expenditures which may be expected during the next several months and therefore to maintain needed market supplies. However, in view of (a) the fact that such increase will take effect following the time of year when basic formula prices normally are at their low point, and (b) the contraseasonal price provision included, it does not appear necessary to provide a specific "floor" price even for the temporary period proposed. A contraseasonal price provision will assist in providing a seasonal movement of prices which will encourage an improved production pattern. Although there would be merit in applying a supply-demand adjustment for the automatic and prompt revision of the Class I price differential as milk production and Class I sales change relative to each other, it is concluded that insufficient information exists at this time for the development of a provision which could be expected to work adequately over a period of time. At this time only one month's statistics on market sales and production are available for study. No information of this kind has been collected for the season of shortest production. It appears that a more satisfactory approach to the development of such type of provision will be possible in light of additional information on market trends.

(2) The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the opportunity for exception thereto, on the above issue.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the attached order effective would defeat the purpose of such amendment. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereto, would make such relief ineffective. The propriety of omitting the recommended decision and opportunity of filing exceptions thereto with respect to all proposals considered was indicated by proponents on the record and no objection was raised.

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

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

(c) The proposed marketing agreement and the order as hereby proposed to be amended, will regulate the handling of milk in the same manner as,

and are applicable only to persons in the respective classes of industrial and commercial activity specified in, the said marketing agreement upon which a hearing has been held.

Determination of representative period. The month of June 1951 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, now in effect, regulating the handling of milk in the Puget Sound, Washington, marketing area, in the manner set forth in the attached amending order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Puget Sound, Washington, Marketing Area," and "Order Amending the Order Regulating the Handling of Milk in the Puget Sound, Washington, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 20th day of August 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order Regulating the Handling of Milk in the Puget Sound, Washington, Marketing Area

§ 925.0 *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 all 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, as amended, 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 Puget Sound, Washington, 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 and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Puget Sound, Washington, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as hereby amended as follows:

1. Delete § 925.51 (a) and substitute therefor the following:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.87 through March 1952 and thereafter the basic formula price plus $1.45: *Provided,* That the price for Class I milk for the months of April through June, inclusive, of any year shall not be higher than the price computed pursuant to the above provisions of this paragraph for the month of March immediately preceding, and the price for Class I milk for any October through January period, inclusive, shall not be lower than the price computed pursuant to the above provisions of this paragraph for the month of September immediately preceding.

Order of the Secretary Directing That a Referendum Be Conducted Along the Producers Supplying Milk in the Puget Sound, Washington, Marketing Area, and Designation of an Agent to Conduct Such Referendum

Pursuant to Section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order regulating the handling of milk in the Puget Sound, Washington, marketing area) who, during the month of June 1951 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order amending such order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

Nicholas L. Keyock is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177).

[F. R. Doc. 51-10111; Filed, Aug. 22, 1951; 8:56 a. m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

[7 CFR Part 940]

PEACHES GROWN IN THE COUNTY OF MESA IN COLORADO

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO EXPENSES AND THE FIXING OF THE RATE OF ASSESSMENT FOR THE 1951–52 FISCAL YEAR

Consideration is being given to the following proposals which were submitted by the Administrative Committee, established under the marketing agreement, as amended, and Order No. 40, as amended (7 CFR Part 940), regulating the handling of peaches grown in the County of Mesa in the State of Colorado, as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses not to exceed $1,200.00 are likely to be incurred by said committee during the fiscal year beginning March 1, 1951, and ending February 29, 1952, both dates inclusive, for its maintenance and functioning under the aforesaid amended marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the pro rata share of such expenses which each handler shall pay in accordance with the provisions of the aforesaid amended marketing agreement and order during the aforesaid fiscal year, the rate of assessment at $0.01 per bushel basket of peaches, or its equivalent of peaches in other containers or in bulk, shipped by such handler during said fiscal year.

All persons who desire to submit written data, views, or arguments for consideration in connection with the aforesaid proposals may do so by mailing the same to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, Room 2077, South Building, Washington 25, D. C. not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

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

Issued this 20th day of August 1951.

S. R. SMITH,
Director,
Fruit and Vegetable Branch.

[F. R. Doc. 51-10114; Filed, Aug. 22, 1951; 8:58 a. m.]

[7 CFR Part 944]

[Docket Nos. AO-105-A8, AO-174-A5]

HANDLING OF MILK IN THE QUAD CITIES AND CLINTON, IOWA, MARKETING AREAS

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order amending the orders, as amended, regulating the handling of milk in the Quad Cities and Clinton, Iowa, marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order were formulated was conducted at Rock Island, Illinois, on May 21-24, 1951, pursuant to notice thereof which was issued on May 2, 1951 (16 F. R. 4140).

The material issues of record related to:

1. The merger of Orders No. 44 and 70 regulating the handling of milk in the Quad Cities and Clinton, Iowa, marketing areas;
2. Extending the combined marketing area to include all the territory now regulated by Order No. 12, regulating the handling of milk in the Dubuque, Iowa, marketing area, as well as certain territory contiguous to the present Quad Cities and Clinton, Iowa, marketing areas;
3. Revising the classification of milk;
4. Revising class prices;
5. Termination of the provisions relating to emergency milk;
6. Defining the obligations of country plants;
7. Providing country plant differentials;
8. Revising the butterfat differential to producers;
9. Changing the rates of assessment for the marketing service and administrative funds; and
10. Other administrative changes necessitated by the merger of the two orders.

Findings and conclusions. The following findings and conclusions on the material issues are based upon the evidence in the record.

1. Order No. 70 regulating the handling of milk in the Clinton, Iowa, marketing area should be consolidated with Order No. 44, regulating the handling of milk in the Quad Cities marketing area.

The evidence clearly indicates that in recent years the character of the industry in the two markets has so changed that there is no longer a clearly defined break between the two areas. The overlapping and intermingling of routes both for the procurement and distribution of milk have increased to the point where the two areas must be considered a single homogeneous market. There appears to be full reciprocity between the several health departments involved. Milk approved by the City of Clinton is eligible for sale in any of the municipalities of the Quad Cities, and Clinton authorities will permit the sale of any milk which has been approved by any of the cities in the Quad Cities.

Substantial quantities of milk and dairy products are distributed in the Clinton area by handlers from Quad Cities, while Clinton handlers operate routes through practically the entire Quad Cities area. There is active competition for business between the two groups of handlers in the territory lying between and adjacent to the two marketing areas.

The area from which Clinton draws its milk is entirely encompassed by the Quad Cities' milkshed, and the producers for the two markets are extensively intermingled. Producers are in a position to ship to either market with equal facility and whenever prices in one market have been out of line with prices in the other market, there has been a shifting of producers from the one market to the other. These markets have been so closely interrelated that in recent years it has been necessary to hold hearings in both markets whenever an adjustment appeared necesary in either market. Although there have been slight variations in classification between the two markets, the prices have been so adjusted that costs to handlers and returns to producers have been virtually identical. A comparison of uniform prices under the two orders for the years 1949 and 1950, shows that while the prices between the two markets in some months varied several cents, the average yearly returns were virtually the same. The simple average of the uniform prices received by Quad Cities producers in 1949 was $3.714 per hundredweight, while Clinton producers received $3.738. In 1950, the respective prices were $3.715 and $3.719.

From the foregoing it has been concluded that there is no longer a reasonable basis for distinguishing between the two areas. In the interest of administrative facility and economy the two marketing areas should be combined under a single order.

To accomplish the merger effectively and most equitably the funds in the custody of the market administrator in the administrative, marketing service and producer-settlement funds under the Clinton order should be combined with the moneys in the similar funds under the Quad Cities order when the merger is effected. Any other method of liquidating the several funds under the Clinton order would be inequitable since it would unduly burden the handlers and producers now regulated by the Quad Cities order.

2. The marketing area should not be expanded to include any additional territory not now covered by either Order No. 44 or Order No. 70.

It was proposed by the cooperative association in the Dubuque market that the area be extended to include the territory now covered by the Dubuque order—Order No. 12. The record evidence does not support the proposal. There is apparently no reciprocity between the Dubuque health authorities and those of the several cities in the Clinton-Quad Cities area. Thus any surplus in the Dubuque market would not be available to alleviate any seasonal shortages of Grade A milk in Clinton and the Quad Cities, but would merely serve to reduce the uniform prices to producers in the latter markets. This could only serve to make more difficult the task of securing an adequate supply for Clinton and the Quad Cities at this time.

While the two milksheds are in part contiguous, there is apparently little overlapping of routes. No milk is regularly disposed of in one area by handlers from the other area, although small lots of milk have on occasion been received in Clinton plants from Dubuque handlers.

One of the handlers proposed that the marketing area be expanded to include all of Clinton, Scott and Muscatine Counties in Iowa, and all of Rock Island County, Illinois. Except for the present Clinton and Quad Cities marketing areas, this area is most rural in character. There are only four communities having populations in excess of 1,000, and of these only the City of Muscatine (approximately 21,000) has a population of 2,500 or more. Moreover there are no effective health regulations in these outlying areas. The City of Muscatine several years ago passed a Grade A ordinance but it has not been applied. At the present time the only Grade A milk distributed in Muscatine originates in the Quad Cities. The four plants located within the city are distributing non-Grade A milk. Accordingly, to extend the marketing area to include this territory while restricting its application to Grade A milk would be a meaningless gesture since no additional handlers would be brought within the scope of the regulation. No proposal was made and no evidence presented on behalf of regulating non-Grade A milk.

A proposal was made also to include within the marketing area the township of Port Byron, a small community in Rock Island County, Illinois, immediately adjacent to the present marketing area. This proposal should be denied for the same reasons that the proposal to include the entire county should be denied.

3. The amended order should provide for three classes of milk. Class I should include fluid milk, milk drinks, cream and concentrated milk for fluid use; Class II should include the less concentrated products such as ice cream, evaporated and condensed milk and aerated products, such as Reddi-Wip; and Class III should contain butter, cheese, casein,

nonfat dry milk solids, animal feed and a limited amount of shrinkage.

This proposed classification is virtually identical to that contained in the present Clinton order, and varies from that provided in the Quad Cities order primarily in that it combines in the same class with fluid milk, milk used for flavored milk drinks, buttermilk and cream.

The record clearly indicates that all products which are required to be made from Grade A milk should be classified as Class I and should return to producers the highest price provided in the order. This is the practice which has been followed in Clinton and in most other markets under regulation. As in the past in both markets unaccounted for skim milk and butterfat and shrinkage in excess of the allowable maximum should also be classified as Class I.

Class I should also include the product generally referred to as "concentrated milk" which has been introduced in a number of markets. While its distribution has not yet been undertaken in the marketing area, there are one or more plants fairly close to the marketing area which are currently manufacturing this product and it is anticipated that it may be introduced in the market in the near future. This product is not sterilized and is disposed of to consumers for consumption in fluid form by the addition of water, or it may be used in the concentrated form as a cream substitute in coffee or on cereals. While the local health authorities have not made a formal ruling as to the requirements for milk to be concentrated, the record indicates a necessity for the product to be made from milk meeting the same requirements as are applicable to fluid whole milk. Accordingly it has been concluded that concentrated milk should properly be classified as Class I milk.

As is currently the case in both Clinton and Quad Cities, the amended order should provide two classes for surplus milk. The identification of the products in these classes, however, should be revised. Class II should continue to contain those products for which there is a local market such as ice cream ingredients and cottage cheese and the less concentrated products such as evaporated milk and condensed milk. Class II should also contain milk or cream sold to wholesale bakeries, candy manufacturers and soup companies. Such establishments are not required to use Grade A milk in their products and are able to purchase milk or cream for use in these products at less than the Class I price from nonregulated plants. Classifying such milk in Class II will permit handlers to compete for this type of trade and will provide an additional outlet for seasonal surpluses at a higher return to producers than can be obtained from the use of such milk in butter or cheese.

Aerated products such as Reddi-Wip and Instant Whip also should be classified in Class II. While these products are directly competitive with fluid cream for the consumer trade, they are not required to be made from Grade A milk and must compete with similar products from unregulated plants. At the hearing producers abandoned their proposal to place such products in Class I, and stated that they should properly be classified in Class II.

The proposed Class III varies from the present definitions of Class III in Clinton or Class IV in Quad Cities only by the addition of nonfat dry milk solids. Until very recently this product was not manufactured by any handler and was not specified in the orders. Accordingly, it fell within the catch-all phrase, "other milk products" in the same class as ice cream and cottage cheese. Since these dry solids provide a concentrated storable product, they may be properly classified in the same class as cheese, butter, and casein.

Some testimony was offered in opposition to the revised classification recommended herein. One handler argued that fluid cream should continue to be classified separately from fluid milk. The evidence, however, does not support this position, since the health regulations apply equally to both fluid milk and cream. The same handler proposed that there be only one class for manufacturing milk to be priced at the higher manufacturing level. The evidence indicates, however, that at least during the period of flush production, facilities in the market are not adequate to absorb the entire receipts of the market in the more favorably priced products and it is necessary that some milk be manufactured into those products which yield a lower return. As the supply of milk increases to a point where it will more nearly meet the demands of the market, the volume of milk going into low return items will increase. Accordingly, it has been concluded that two classes must be provided for proper handling of the surplus milk on the market.

A further proposal was made that bulk condensed skim milk be classified in the lowest class with nonfat dry milk solids. The principal market for milk solids in this form is the local ice cream industry and most of the condensed skim manufactured is ultimately used locally in ice cream or ice cream mix. It appears proper to continue to classify condensed skim milk in the class with ice cream and ice cream mix.

4. The class prices should be revised.

The evidence indicates that the Quad Cities market is becoming increasingly competitive with the Chicago market in the procurement of producer supplies. It is apparent that this trend will continue in the future. The Class I prices in the Quad Cities market must be maintained at or close to their historical relationship with Chicago or it will be at a competitive disadvantage.

In the past the Class I differential in the Quad Cities has averaged 24.2 cents higher than the Class I differential in the Chicago market. The average variation in the Class I prices, however, has been approximately 20 cents because the basic formula price in the Chicago market has averaged approximately 5 cents higher than the basic formula price in the Quad Cities market.

In order to preserve the past relationship it has been concluded that the Class I differential should be fixed 25 cents higher each month than the Class I differential provided in the Chicago order as recently amended. This would result in an increase of 5 cents in the Class I differential during the months of January, February, March, May and June, of 25 cents in the month of April, and in a decrease of 20 cents during the month of December. The average differential for the year would be increased from $0.975 to $1.00.

The problem of maintaining the proper relationship between the two markets has been further complicated by the recent amendment to the Chicago order which provides that the differentials shall be increased or decreased within fixed limits as the ratio of producer receipts to Class I sales varies from the normal seasonal index set forth in the order. As a result of the operation of this supply-demand adjustment, the Class I differential under the Chicago order has been raised 20 cents per hundredweight for the month of July 1951. It is apparent that for the next several months the differentials will continue at a somewhat higher level than as normally provided in such order. To compensate for this factor and to prevent a narrowing of the spread between the Quad Cities and Chicago prices, the amended order must provide that the Class I price in the Quad Cities shall not be less than the Class I price announced for the 70 mile zone under the Chicago order, plus 20 cents.

While it must be concluded that it is necessary to increase the Class I differential in Quad Cities by a corresponding amount whenever the Class I differential under the Chicago order is raised, the Class I differential should not be permitted to drop below the level recommended herein should the operation of the supply-demand adjustment result in a reduction in the nominal differentials provided in the Chicago order. It would be unreasonable and uneconomic to permit the Quad Cities differential to fall below the approximate levels which have prevailed in the past few years. To do so would endanger the supply of milk for the area and tend to disrupt the orderly marketing of milk.

The Chicago market normally is amply supplied with milk and draws the bulk of its supplies from Wisconsin areas which are primarily dairy regions. The Quad Cities market has been in very short supply even since Grade A ordinances were adopted by all the cities in the marketing area. Except in the spring months of peak production, producer receipts have been less than the fluid requirements of the market. The Quad Cities milkshed is in a diversified farm area where beef, hogs and cash grains, rather than dairying, are the major farm enterprises.

Although there has been a steady increase in producer numbers in the Quad Cities, the increase has been very gradual. A reduction in the Class I differential would seriously retard the development of an adequate supply of milk for the market. The returns to farmers from beef, hogs and cash grains are such that a reduction in milk prices would not only reduce the incentive for any expansion of present milk production, but might also cause producers on

the market to abandon dairying in favor of more lucrative farm enterprises.

The Class II (Class III under the present order) price which is also the basic formula for determining the Class I price should be changed by the addition of the Carnation Company of Waverly, Iowa, to the listed plants whose paying prices are used in computing an alternative price for Class II milk. It was proposed by the producers that the 18 midwest condenseries which are widely used as a pricing basis in other markets be substituted for the Illinois plants now used in both the Quad Cities and Clinton orders. It was their contention that use of these plants would keep the Quad Cities price more nearly aligned with the Chicago price. A comparison of the two price series, however, indicates a very similar pattern, with the prices paid by the Illinois plants averaging approximately 5 cents under those paid by the 18 condenseries. Very similar Class I prices would result from the use of either the Illinois plants plus the proposed differentials, or the 18 condenseries plus a 5 cent lower differential. Because of the nearness of the Illinois plants and the fact that several of them actively compete with Quad Cities and Clinton handlers for milk produced in the milkshed, it has been concluded that their paying price is more representative than the 18 condenseries of conditions in the milkshed relating to the purchase of manufacturing milk. The Illinois plants should therefore continue to be used as a basis for fixing the Class II price. The Carnation plant at Waverly, Iowa, should be added to the list, however. Because a sizeable volume of the receipts in the market originate in Iowa, it was argued that Iowa plants should also be used in determining the Class II price. The Waverly plant is the only Iowa condensery located close to the milkshed of the Quad Cities. Although the prices paid at this plant have averaged approximately the same as those paid by the Illinois plants, there are short time differences in price and the inclusion of this plant will provide a broader base which will be more representative of conditions in the entire milkshed.

The butter-cheese formula provided as an alternative Class II price is the same as that provided in the present Quad Cities order and its use should be continued. This formula is similar to those provided in other marketing orders and establishes a floor under the Class I and Class II prices in the event the prices paid by the condenseries should fall below their normal relationship to the values of manufactured dairy products.

The Class III (present Class IV) price should provide a butter-powder formula as an alternative to the cheese formula currently used for pricing. Based on current commodity prices the proposed formula would return to producers a somewhat higher price than the present cheese formula. Until recently there were no drying facilities available to the market and any seasonal surplus above that which could be absorbed in ice cream, cottage cheese and other Class II products was manufactured into cheese, or butter and casein, or butter and animal feed. Now, however, there are drying facilities available to absorb such milk and it appears reasonable that the Class III price should be altered to reflect the higher returns available from such utilization.

The formula which has been recommended is based on the representative yields of butter and nonfat dry milk solids in 100 pounds of milk of 3.5 percent butterfat content. It provides a manufacturing and handling allowance of approximately 78 cents per hundredweight. Of this amount 6 cents is allowed per pound of butter and 6.5 cents per pound of nonfat solids. The record indicates that this amount is a reasonable allowance for a plant of the type in the milkshed which must operate on a relatively small volume of milk which is highly seasonal in character.

The cheese formula now included in both the Quad Cities and Clinton, Iowa, orders, provides for use of the average weekly prices of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin as reported by the Department of Agriculture during the delivery period with a proviso that if there are no sales on the Exchange during any week, the last previously quoted price shall be used as the price for that week. Since the Department now publishes an average price of such cheese for each month which includes a price for each week the proviso to use the previous week's price is no longer necessary.

The Class I and Class II (present Class III) butterfat differentials to handlers should be continued at the rates provided in the present order, i. e., 1.4 times the price of butter and 1.2 times the price of butter, respectively. The Class III (present Class IV) butterfat differential should be reduced to provide the same relationship between the values of butterfat and skim milk as is used in computing the Class III price for milk of 3.5 percent butterfat content. The present differential of 1.2 times the price of butter makes no allowance for a manufacturing cost in the handling of butterfat and results in undervaluing the skim milk. A differential based on the butterfat value used in determining the Class III price will remedy this defect and will place values on butterfat and skim milk in line with the returns obtained from them. The Class III butterfat differential therefore should be computed by subtracting 6 cents from the price of butter and multiplying the result by 1.2.

A handler witness proposed that the Class I differential be reduced from 1.40 percent of the butter price to 1.25 percent of the butter price. The evidence introduced in support of this proposal, however, does not warrant making a reduction in the differential at this time.

5. The emergency milk provisions of the order should be modified. Under the present order it is possible for handlers to import excessive quantities of emergency milk when the market is found to be short of producer milk. Abuse of the emergency provisions has a very depressing effect on the market since it reduces the uniform price to producers at a time when the market is short and producers should be encouraged to increase their supply. Producers advocated the complete deletion of the emergency milk provisions, and the designation of all imported milk as "other source" milk which would be allocated to the lowest use classification in handlers' plants. Handlers proposed that a restriction be placed on the amount of milk which could be designated "emergency" milk and suggested an amount equal to the difference between producer receipts and 110 percent of Class I sales.

The evidence clearly indicates that the market will continue to have insufficient producer milk to meet its Class I requirements during the fall months of 1951 and probably of 1952. The emergency milk provisions should be continued until there is sufficient producer milk to care for the needs of the market. A limitation, however, should be placed on the amount of milk so designated to prevent any unnecessary dilution of returns to producers. The record evidence shows that during the 6-month period of September 1950 to February 1951, producer receipts plus imports of emergency milk averaged 108 percent of Class I (Class I and Class II of present order) disposition. It appears, therefore, that an excess of 8 percent over Class I requirements will provide sufficient margin to accommodate day to day fluctuations in receipts and sales. Accordingly it has been concluded that receipts of other than producer milk should be considered emergency milk up to an amount not in excess of the difference between producer receipts and 108 percent of Class I sales.

6. There is no necessity at the present time for prescribing a set of stringent requirements to which country plants must adhere to be included in the market-wide pool under the order. Until very recently all the milk in the market was received directly from producers by the city bottling plants. A few months ago, however, one of the cooperative associations in the market acquired a plant some 60 miles from Rock Island, Illinois, where milk is received from producers and transported to the market in tank trucks when it is needed. One of the handlers, fearful that this milk might be diverted elsewhere when the market needed it, proposed that country plants be required to ship a certain percentage of their receipts to the market as Class I milk and meet other stringent requirements or be barred from participation in the pool. The record fails to indicate any need for such a provision at this time. Moreover, the proposal as presented is unsuited to the Quad Cities market, having been copied from a similar provision in an order in a large market in which most of the milk moves through country plants.

If, in the future, there should develop a situation where country plants were able to "ride the pool" and avoid their obligation to supply milk to the market when needed, it would undoubtedly be necessary to amend the order to adopt corrective measures. Such an amendment, however, would necessarily be based on the situation then existing in the market, and would be designed to remedy the particular problem which threatened the stability of the market.

Accordingly, it must be concluded that no action should be taken at this time on the proposal.

7. The order should not provide a location differential on milk moved from country plants to the marketing area. A handler witness proposed that for milk received at a country plant located outside the marketing area and which is moved to the marketing area, the class prices in the order should be reduced 3 cents per hundredweight for each 15 miles or additional fraction thereof that such plant is distant from the City Hall in Rock Island, Illinois. He further proposed that no deduction be taken from producers supplying the plant—in effect a suggestion that all the producers subsidize the hauling of producers shipping to country plants. The latter proposal appears unreasonable. If handlers were allowed a location differential on milk received at country plants, a similar adjustment should be made in the prices received by producers shipping to such plant.

No other witness testified either for or against the inclusion of location differentials to producers or handlers. Accordingly, the evidence on this issue is limited. The record fails to show what would be the effect of location differentials, particularly at the producer level, on market supplies of milk.

As pointed out above, the only country plant at present supplying the market is located a little more than 60 miles from the Rock Island City Hall. The producers shipping to this plant are located little or no farther from the marketing area than are many other producers whose milk is hauled directly from the farm to city plants. In view of the lack of evidence as to the effect that producer location differentials might have on producer receipts—particularly the competitive relationship with other markets whose milksheds border on that of the Quad Cities—it must be concluded that the record does not justify the inclusion of location differentials at this time.

8. The producer butterfat differential should be revised to reflect the average value of excess butterfat in each class. Producer witnesses testified that the butterfat differential to producers should be equal to the average price paid by handlers for butterfat. It has been concluded that the producer differential should be equal to the simple average of the class butterfat differentials paid by handlers. The resulting butterfat differential will be slightly higher than the present differential of 1.2 times the price of butter. It will more nearly represent the value of butterfat in excess of 3.5 percent than would the proposal of the producers. It will also avoid the excessive seasonal increases and wide monthly variations in value that could result from the use of a weighted average.

9. The administrative assessment should be continued at a maximum of 3 cents per hundredweight and the marketing service assessment at a maximum of 6 cents per hundredweight. In the present Clinton order the maximum rate of assessment in both funds is 5 cents.

The market administrator is required to verify the utilization of all milk received, and therefore other source milk and emergency milk as well as producer milk should bear their proportionate share of the administrative cost. It appears that an assessment on emergency milk and other source milk classified as Class I will apportion the expenses more equitably among handlers. The testimony indicates that some handlers receive substantial quantities of other than producer milk for their manufacturing operations. Application of the assessment to all such receipts by a handler would place him at some disadvantage in disposing of manufactured dairy products in competition with persons not regulated by the order.

The record indicates that an assessment of 3 cents per hundredweight will provide ample funds to administer the combined order. The question was raised as to whether the merging of the orders might not result in sufficient savings to warrant a reduction in the maximum figure. Since the two orders have been administered jointly from a single office and with the same staff of employees, the economies in administration will not be sufficiently great to warrant a reduction in the prescribed maximum rate. As in the past the 3 cents is a maximum figure and the actual assessment can be reduced should operations prove that a lesser amount will provide sufficient revenue to administer the order.

The record further indicates that to provide adequate marketing services to producers the marketing service assessment should be continued at 6 cents. The record indicates little likelihood of any savings in the cost of administering the marketing service program as a result of the merger of the two orders. It appears that increased traveling costs would more than offset any saving effected through merging of laboratory facilities and personnel. As in the case of the administrative fund, the 6 cent figure provided is a maximum and the actual rate of assessment can be reduced should operations prove that a lesser amount will provide sufficient revenue to provide adequate services to producers.

10. The evidence indicates that the remaining provisions of the amended order should be essentially the same as the like provisions of the Quad Cities order. These are virtually identical to the provisions of the present Clinton order, except for the deletion of that provision of the Clinton order whereby handlers if they prefer, may discharge their obligations to producers by paying the market administrator the full utilization value of their milk. The market administrator is then required to pay the individual producers who supplied milk to such handler. The record indicates that only one handler in Clinton is exercising this option at the present time. Accordingly, it has been concluded that the option to pay producers through the market administrator should be omitted from the amended order merging the two markets.

Likewise the provision of the Clinton order providing for mid-delivery period payments to producers should be dropped from the combined order. No evidence was presented in favor of the retention of such a provision. There is nothing in the order which would prevent handlers from continuing the practice of making advance payments to producers if they so desire. Such advances have frequently been made to producers in the Quad Cities and in other markets which do not require that advance payments be made to all producers.

One of the handlers proposed that the requirement that the market administrator advise a cooperative association of any variance between the handlers reported utilization of milk received from the cooperative association and that reported by the cooperative association, be deleted from the order. It was the contention of this handler, that such information was confidential and should not be revealed to the association. Under the order the cooperative associations in the Quad Cities are handlers and the order provides that they should report to the market administrator the utilization of milk sold to other handlers. In any other interhandler transaction both handlers are required to report the utilization of the milk transferred. With respect to purchases from a cooperative association, the difference is one of degree since in most cases purchases from the cooperative association represent the major portion of or all of the receipts of a particular handler. A further reason for divulging such information to cooperative associations is to facilitate more efficient marketing of milk. In a short market such as Quad Cities it is especially important that a cooperative association know the utilization of the individual plants. This facilitates an equitable distribution of milk among handlers. The knowledge of which handlers are short of milk and which are over-supplied affords the association a basis for diverting milk between handlers to assure its utilization in the highest class. Accordingly it is concluded that no change in this provision should be made.

A further proposal was made by handlers that the date for filing reports be changed from the 5th day of the month to the 10th. They contended that the present five days did not provide sufficient time to compile reports, especially when a week-end or a holiday fell within the period. Producers were bitterly opposed to any change which would further delay payments to producers for their milk. The market administrator testified that if the two markets were combined and his office was no longer required to compute separate pools for Clinton and Quad Cities, he believed that he could continue to compute and announce the uniform price on the 10th of the month if handlers' reports were received by the 7th of the month. It has been concluded, therefore, that the date for filing reports should be changed from the 5th to the 7th day of the month. This will afford handlers two additional days in which to prepare their reports and will not necessitate any change in the date of making payments to producers. No proposals were made and no testimony offered in support of any substantive changes in the provisions of the order other than those specifically discussed in preceding paragraphs. The witness who testified recommended the

adoption of such provisions in their present form. Accordingly, except for changes in context necessitated by the adoption of the amendments discussed above, the remaining provisions of the order should be incorporated in their present form.

General findings. (a) The proposed marketing agreement and the order amending the order, as amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

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

(c) The proposed order amending the order, as amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Several briefs were filed on behalf of the three producers' associations and the handlers in the market. The briefs contained proposed findings of fact, conclusions, and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended Marketing Agreement and Order

The following order amending the order, as amended, is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order:

DEFINITIONS

§ 944.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 944.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States as may be authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 944.3 *Quad Cities marketing area.* "Quad Cities marketing area" hereinafter called the "marketing area" means the territory lying within the corporate limits of the City of Clinton, Iowa, and that part of Camanche township, including the City of Camanche, lying east of sections 2, 11, 14, 23, 26, and 35, all in Clinton County, Iowa; the territory lying within the corporate limits of the Cities of Davenport and Bettendorf, Iowa, and Rock Island, Moline, East Moline and Silvis, Illinois; together with the territory lying within the following townships: Davenport, Rockingham and Pleasant Valley in Scott County, Iowa; and South Moline, Moline, Blackhawk, Coal Valley, Hampton, and South Rock Island in Rock Island County, Illinois.

§ 944.4 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 944.5 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 944.6 *Delivery period.* "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

§ 944.7 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines: (a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; (b) has full authority in the sale of milk of its members; and (c) is engaged in making collective sales of or marketing milk or its products for its members.

§ 944.8 *Producer.* "Producer" means any person who, in conformity with the Grade A quality requirements of the milk ordinance of any of the several municipalities in the marketing area or the Grade A Milk and Grade A Milk Products Law of the State of Illinois produces milk which (a) is received at a pool plant or (b) which is caused by a cooperative association to be diverted from a pool plant to a nonpool plant. This definition shall not include a person with respect to milk produced by him which is received by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this order pursuant to § 944.56.

§ 944.9 *Handler.* "Handler" means (a) any person in his capacity as the operator of a pool plant, (b) a cooperative association which in a handler pursuant to paragraph (a) of this section with respect to the milk of any producer which it causes to be delivered to the pool plant of another handler, and (c) any cooperative association with respect to the milk of any producer which it causes to be diverted from a pool plant to a nonpool plant.

§ 944.10 *Pool plant.* "Pool plant" means (a) a plant from which Class I milk is disposed of as Grade A milk on wholesale or retail routes (including plant stores) within the marketing area, (b) a plant owned and operated by a cooperative association which is located within the marketing area, or (c) a plant which is under regular inspection by one or more of the health authorities of the several municipalities in the marketing area and which is approved for the receiving of Grade A milk and from which Grade A milk is regularly disposed of to plants described in paragraph (a) of this section for Class I use.

§ 944.11 *Producer - handler.* "Producer-handler" means any person who is both a producer and a handler and who receives no milk directly from the farms of other producers: *Provided*, That the maintenance, care and management of the dairy animals and other resources necessary to produce the milk, and the processing, packaging, and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 944.12 *Producer milk.* "Producer milk" means all skim milk and butterfat which is produced by a producer, other than a producer-handler, and which is received by a handler either directly from producers or from other handlers.

§ 944.13 *Emergency milk.* "Emergency milk" means milk which is received by a handler under the conditions and subject to the limitations prescribed in § 944.57.

§ 944.14 *Other source milk.* "Other source milk" means all skim milk and butterfat except that contained in producer milk and in emergency milk.

MARKET ADMINISTRATOR

§ 944.20 *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 944.21 *Powers.* The market administrator shall have the power to:

(a) Administer the terms and provisions of this subpart;

(b) Make rules and regulations to effectuate the terms and provisions of this subpart;

(c) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this subpart; and

(d) Recommend to the Secretary amendments to this subpart.

§ 944.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 30 days following the date upon which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 944.75 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 944.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Publicly announce unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the date upon which he is required to perform such acts has not made (1) reports pursuant to § 944.30, or (2) payments pursuant to §§ 944.65 to 944.70;

(h) On or before the 10th day after the end of each delivery period, report to each cooperative association which is a handler pursuant to § 944.9 (b) the amount and classification of milk caused to be delivered by such cooperative association to any handler, if such amount or classification reported by the handler differs from that reported by the cooperative association;

(i) Audit each handler's records and payments by inspection of such handler's records and the records of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 5th day of each delivery period (i) the minimum price for Class I milk computed pursuant to § 944.50 (a) and the butterfat differential computed pursuant to § 944.51 (a), both for the current delivery period, and (ii) the minimum prices computed pursuant to § 944.50 (b) and (c) and the butterfat differentials computed pursuant to § 944.51 (b) and (c) for the previous delivery period; and

(2) On or before the 10th day of each delivery period the uniform price computed pursuant to § 944.61 and the butterfat differential computed pursuant to § 944.66, both for the previous delivery period; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 944.30 *Delivery period reports of receipts and utilization.* On or before the 7th day of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on the forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in (or used in the production of) all receipts within the preceding delivery period of (1) producer milk, (2) skim milk and butterfat in any form from other handlers, (3) emergency milk, and (4) other source milk (except nonfluid milk products disposed of in the form in which received without further processing or packaging by the handler) and the sources thereof;

(b) The utilization of all receipts required to be reported pursuant to paragraph (a) of this section; and

(c) Such other information with respect to all such receipts and utilization as the market administrator may prescribe.

§ 944.31 *Other reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 944.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization, in whatever form, of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing or packaging;

(b) The weights and tests for butterfat and for other content of all skim milk, milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all skim milk, milk, cream, and milk products on hand at the beginning and end of each delivery period.

§ 944.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period the market administrator notifies the handler in writing that the retention of such records or of specified books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 944.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received during the delivery period by a handler from producers or other handlers or as emergency milk or as other source milk shall be classified by the market administrator pursuant to §§ 944.41 to 944.47.

§ 944.41 *Classes of utilization.* Subject to the conditions set forth in §§ 944.43 and 944.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, or any mixture (except mixes for ice cream and frozen desserts) of cream and milk or skim milk containing more than 6 percent of butterfat, (2) used in the production of concentrated milk, not sterilized, for fluid consumption, and (3) not specifically accounted for under paragraphs (b) and (c) of this section.

(b) Class II milk shall be all skim milk and butterfat (1) used to produce evaporated milk, condensed milk, condensed skim milk, ice cream, mixes for ice cream and frozen desserts, yogurt, aerated products such as Super-Wip, Instant-Whip and similar products, cottage cheese or any other milk product not specified in paragraphs (a) and (c) of this section, and (2) disposed of to wholesale bakeries, candy manufacturers or soup companies.

(c) Class III milk shall be all skim milk and butterfat (1) used to produce butter, American-type Cheddar Cheese, animal feed, casein and nonfat dried milk solids; (2) in shrinkage up to 2 percent of receipts from producers and cooperative associations and of emergency milk; and (3) in shrinkage of other source milk.

§ 944.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler.

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in (1) producer milk and emergency milk, and (2) other source milk.

§ 944.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat received by a handler shall be Class I milk, unless the handler who first receives such skim milk or butterfat can prove to the market administrator that it should be classified otherwise.

(b) Any skim milk or butterfat (except that transferred to a producer-handler) shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 944.44 *Transfers.* Skim milk or butterfat disposed of by a handler, either

by transfer or diversion shall, except as provided in § 944.45, be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to another handler, except a producer-handler, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, but in no event shall the amount classified in any class exceed the total use in such class by the transferee handler: *Provided*, That if either or both handlers have received other source milk such milk so disposed of shall be classified at both plants so as to return the higher class utilization to producer milk.

(b) As Class I milk if transferred to a producer-handler in the form of milk, skim milk, or cream.

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a nonhandler's plant unless (1) the handler claims other utilization on the basis of utilization mutually indicated in writing to the market administrator by both the handler and nonhandler on or before the 7th day after the end of the delivery period within which such transfer or diversion occurred, (2) such nonhandler maintains books and records showing the utilization of all skim milk and butterfat at his plant, which are made available if requested by the market administrator for the purpose of verification, and (3) such nonhandler's plant had actually used not less than the equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided*, That if verification of such nonhandler's records discloses that an equivalent amount of skim milk and butterfat had not been used in such indicated utilization, the remaining pounds shall be classified in series beginning with the next higher price classification in which such nonhandler had utilization.

§ 944.45 *Receipts from a cooperative association.* Skim milk and butterfat caused to be delivered from a producer to any other handler by a cooperative association which is a handler pursuant to § 944.9 (b) shall be ratably apportioned over the receiving handler's total utilization of milk remaining after the subtraction of other source milk, receipts from other handlers which are not cooperative associations, and emergency milk.

§ 944.46 *Computation of skim milk and butterfat in each class.* For each delivery period the market administrator shall correct mathematical and other obvious errors in the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 944.47 *Allocation of skim milk and butterfat classified.* After computing the classification of all skim milk and butterfat received by a handler pursuant to § 944.46, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk determined pursuant to § 944.41 (c) (2);

(2) Subtract from the remaining pounds of skim milk in each class in series beginning with the lowest-priced class in which the handler has use, the pounds of skim milk contained in other source milk;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk contained in receipts from other handlers in accordance with its classification as determined pursuant to § 944.44 (a);

(4) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(5) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk contained in emergency milk;

(6) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk received from a cooperative association which is a handler pursuant to § 944.9 (b); and

(7) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers, an amount equal to the difference shall be subtracted from the pounds of skim milk in each class in series beginning with the lowest-priced class in which the handler has use. Any amount so subtracted shall be called "overrun."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 944.50 *Class prices.* Subject to the provisions of §§ 944.51 and 944.52 the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the delivery period shall be as follows:

(a) *Class I milk.* The price for Class I milk for the preceding delivery period plus $0.75 during May and June; plus $1.13 during the months of July through November, inclusive, and plus $0.95 during the remaining months of each year: *Provided*, That in no month shall the Class I price be less than the 70 mile zone price established per hundredweight of Class I milk under Order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area plus 20 cents.

(b) *Class II milk.* The higher of the prices resulting from the computations made pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic or field prices reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the period from the 16th day of the preceding delivery period to the 15th day of the current delivery period at each of the manufacturing plants or places listed below for which prices are reported to the market administrator or to the Department:

Present Operator of Plant and Location

Amboy Milk Products Co., Amboy, Ill.
Borden Co., Dixon, Ill.
Borden Co., Sterling, Ill.
Carnation Co., Morrison, Ill.
Carnation Co., Oregon, Ill.
Carnation Co., Waverly, Iowa.
United Milk Products Co., Argo Bay, Ill.

(2) The price resulting from the following computation:

(i) Multiply by 6 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period;

(ii) Add an amount equal to 2.4 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of the cheese known as "Twins" at Chicago as reported by the Department during the delivery period;

(iii) Divide the resulting sum by 7;

(iv) Add 30 percent thereof; and

(v) Multiply the resulting sum by 3.5.

(c) *Class III milk.* The higher of the prices resulting from the following computations by the market administrator:

(1) Multiply by 2.4 the simple average as published by the Department of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, during the delivery period and multiply such result by 3.5;

(2) From the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period, deduct 6 cents, multiply the resulting sum by 1.2, and multiply that result by 3.5; and add the result of the following: From the simple average of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, for human consumption, f. o. b., manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, deduct 6½ cents, multiply the result by 8.2 and multiply that result by 0.965: *Provided*, That, if such f. o. b. manufacturing plant prices for nonfat dry milk solids are not reported, there shall be used for the purpose of such computation the average of carlot prices for nonfat dry milk solids for human consumption, both spray and roller process, delivered at Chicago as reported by the Department during the delivery period; and in the latter event 8½ cents shall be used in lieu of the 6½ cent deduction in arriving at the computation.

§ 944.51 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 944.47 is more or less than 3.5 percent, there shall be added to the respective class price computed pursuant to § 944.50 for each one-tenth of 1 percent that the average butterfat content is above 3.5 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content

is below 3.5 percent, an amount equal to the applicable butterfat differential computed as follows:

(a) *Class I milk.* Multiply the simple average of the daily average wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period preceding that in which the milk was received by 1.40 and divide the resulting amount by 10.

(b) *Class II milk.* Multiply the simple average of the dairy average wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period in which the milk was received by 1.20 and divide the resulting amount by 10.

(c) *Class III milk.* From the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period in which the milk was received, subtract 6 cents, multiply the result by 1.20 and divide the result by 10.

§ 944.52 *Emergency price provisions.* (a) Whenever the provisions hereof require the market administrator to use a specific price or prices for any milk product for the purpose of determining class prices or for any other purpose the market administrator shall add to the specified price the amount of any subsidy or other similar payments being made by any Federal agency in connection with the milk, or product, associated with the prices specified.

(b) If the specified price which the market administrator is required to use for the purpose of determining class prices or for any other purpose is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

APPLICATION OF PROVISIONS

§ 944.55 *Producer-handler.* Sections 944.40 to 944.47, 944.50 to 944.52, 944.60 and 944.61, 944.65 to 944.70, and 944.75 shall not apply to a producer-handler.

§ 944.56 *Handlers subject to other Federal orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to his total receipts and utilization of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports in accordance with the provisions of § 944.32.

(b) If the price which such handler is required to pay under the other order to which he is subject for skim milk and butterfat which is classified as Class I milk under this subpart, is less than the price provided by this subpart, such handler, on or before the 13th day after the end of the delivery period in which a bill is rendered, shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject.

§ 944.57 *Emergency milk.* In any delivery period in which the market administrator determines that the supply of skim milk or butterfat in producer milk available to any handler is insufficient for such handler's disposition of Class I milk, skim milk or butterfat, other than that in producer milk, which is received by such handler and which is permitted by the health authorities of any of the municipalities in the marketing area to be disposed of as Grade A milk shall be considered emergency milk up to an amount equal to the difference between the receipts of skim milk or butterfat in producer milk by such handler and 108 percent of his total disposition of skim milk or butterfat in Class I milk.

DETERMINATION OF UNIFORM PRICE

§ 944.60 *Computation of the value of milk received from producers.* The value of the milk received from producers during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of milk in each class by the applicable class prices and adding together the resulting amounts: *Provided,* That, if the handler had overrun of either skim milk or butterfat there shall be added to the above value an amount computed by multiplying the pounds of overrun by the applicable class prices.

§ 944.61 *Computation of uniform price.* For each delivery period the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 944.60 for all handlers who made the reports prescribed by § 944.30 and who made the payments pursuant to §§ 944.65 to 944.68 for the preceding delivery period.

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of contingent obligations to handlers pursuant to §§ 944.69 and 944.70;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 944.66, and multiplying the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting amount by the total hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount per hundredweight computed pursuant to paragraph (d) of this section. The resulting figure shall be known as the uniform price for milk received from producers.

PAYMENT FOR MILK

§ 944.65 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the delivery period during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraphs (b) and (c) of this section, at not less than the uniform price computed in accordance with § 944.61, subject to the butterfat differential computed pursuant to § 944.66.

(b) On or before the 12th day after the end of the delivery period during which the milk was received, to a cooperative association which is not a handler pursuant to § 944.9 (b), for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and wishes to exercise such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(c) On or before the 12th day after the end of the delivery period during which the milk was received, to a cooperative association which is a handler pursuant to § 944.9 (b), for milk which was caused to be delivered to such handler by such cooperative association, at not less than the value of such milk computed by multiplying the pounds of such milk allocated to each class pursuant to § 944.47 by the applicable class prices provided in § 944.50.

§ 944.66 *Butterfat differential to producers.* In making payments pursuant to § 944.65 (a) there shall be added to or subtracted from the uniform price per hundredweight for each one-tenth of 1 percent that the average butterfat content of the milk received from each producer is above or below 3.5 percent an amount equal to the simple average of the butterfat differentials to handlers for all classes of milk pursuant to § 944.51 (a), (b) and (c).

§ 944.67 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 944.56, 944.68, and 944.70, and out of which he shall make all payments to handlers pursuant to §§ 944.69 and 944.70.

§ 944.68 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the delivery period during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if

any, by which the value of the milk received by such handler from producers as determined pursuant to § 944.60 is greater than the amount required to be paid producers by such handler pursuant to § 944.65.

§ 944.69 *Payments out of the producer-settlement fund.* On or before the 15th day after the end of the delivery period during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the delivery period, as determined pursuant to § 944.60 is less than the amount required to be paid producers by such handler pursuant to § 944.65: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who has not received the balance of such payments from the market administrator shall be considered in violation of § 944.65 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 944.70 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

§ 944.71 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart, shall except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

OTHER PAYMENTS

§ 944.75 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator, on or before the 15th day after the end of the delivery period during which the milk was received, 3 cents per hundredweight or such lesser amount as the Secretary from time to time may prescribe, with respect to all receipts within the delivery period from producers (including such handler's own production and receipts from cooperative associations) and with respect to emergency milk or other source milk which is classified as Class I milk: *Provided,* That a handler which is a cooperative association shall pay such pro rata share of expense on only that milk of producers received by such cooperative association or caused by such cooperative association to be delivered to a nonpool plant.

§ 944.76 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 944.65 shall make a deduction of 6 cents per hundredweight of milk or such lesser deduction as the Secretary from time to time may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association; and

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such cooperative association.

Such deductions shall be paid by the handler to the market administrator on or before the 15th day after the end of the delivery period during which the milk was received. Such moneys shall be expended by the market administrator for verification of weights and tests of milk received from such producers and in providing market information to such producers.

(b) In the case of each producer who is a member of, or who has given written authorization for the rendering of marketing services and the taking of a deduction therefor to a cooperative association, which the Secretary has determined is performing the services described in paragraph (a) of this section, such handler in lieu of the deduction specified under paragraph (a) of this section, shall deduct from the payments made pursuant to § 944.65 (a) the amount per hundredweight authorized duction to the cooperative association entitled to receive it on or before the 15th day after the end of the delivery period during which such milk was received.

EFFECTIVE TIME, SUSPENSION AND TERMINATION

§ 944.80 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 944.81 *Suspension or termination.* The Secretary shall, whenever he finds this subpart, or any provision hereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision hereof.

§ 944.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations hereunder the final accrual or ascertainment of which require further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 944.83 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all accounts, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand

exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 944.90 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 944.91 *Separability of provisions.* If any provision of this subpart or its application to any person or circumstance, held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 16th day of August 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 51-10055; Filed, Aug. 22, 1951; 8:45 a. m.]

[7 CFR Part 945]

[Docket No. AO 231]

HANDLING OF MILK IN THE WICHITA FALLS, TEX., MARKETING AREA

ORDER OF THE SECRETARY DIRECTING THAT REFERENDUM BE CONDUCTED AMONG PRODUCERS SUPPLYING MILK; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF AGENT TO CONDUCT SUCH REFERENDUM

A referendum was held on August 3, 1951, pursuant to the directive issued July 17, 1951 (16 F. R. 7029). Prior to preparation of a report on the results of this referendum, producers reported instances of their misunderstanding and confusion as to the manner in which the balloting was to be conducted. It is alleged that these circumstances did not permit a true reflection of producers' sentiments. Producers therefore requested that no decision be made on the results of such referendum and that a new referendum be conducted in order to avoid any misunderstanding as to the adequacy of the opportunity to producers to cast a vote.

Therefore, pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among producers (as defined in the proposed order regulating the handling of milk in the Wichita Falls, Texas, marketing area which was annexed to the decision issued on July 17, 1951 (16 F. R. 7029)) who, during the month of April 1951, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of such order.

The month of April 1951 is hereby determined to be the representative period for the conduct of such referendum.

Hobart E. Crone is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for conducting of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177) such referendum to be completed on or before the 35th day from the date this referendum order is issued.

Done at Washington, D. C., this 20th day of August 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-10110; Filed, Aug. 22, 1951; 8:55 a. m.]

[7 CFR Part 950]

PEACHES GROWN IN UTAH

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO THE EXPENSES AND THE FIXING OF RATE OF ASSESSMENT FOR 1951-52 FISCAL YEAR

Consideration is being given to the following proposals which were submitted by the Administrative Committee, established under the marketing agreement and Order No. 50 (7 CFR Part 950), regulating the handling of peaches grown in Utah, as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses not to exceed $3,050.00 are likely to be incurred by said committee during the fiscal year beginning May 1, 1951, and ending April 30, 1952, both dates inclusive, for its maintenance and functioning under the aforesaid marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the share of such expenses which each handler who first ships peaches shall pay in accordance with the provisions of the aforesaid marketing agreement and order during the aforesaid fiscal year, the rate of assessment at $0.0075 per bushel basket of peaches, or an equivalent quantity of peaches in other containers or in bulk, shipped by such handler during said fiscal year.

All persons who desire to submit written data, views, or arguments for consideration in connection with the aforesaid proposals may do so by mailing the same to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, Room 2077, South Building, Washington 25, D. C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

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

Issued this 20th day of August 1951.

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

[F. R. Doc. 51-10109; Filed, Aug. 22, 1951; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 11, 16]

[Docket No. 9898]

NEW POLICY ON LICENSING OF RELAY STATIONS IN THE INDUSTRIAL AND LAND TRANSPORTATION RADIO SERVICES

FURTHER NOTICE OF PROPOSED RULE MAKING

1. Notice is hereby given that a hearing will be held on a date to be specified later in the above entitled matter for the purpose of obtaining information on the issue set forth below.

2. By its report and order in Docket 9898, adopted August 15, 1951, the Commission amended Parts 11 and 16 of its rules,[1] effective September 24, 1951, to provide for the licensing of mobile relay stations under certain conditions. At the same time, the Commission pointed out that additional information would be necessary before a final determination could be made on certain of the issues raised by the rules proposed in Docket 9898 and by the comments submitted thereon.

3. Accordingly, pursuant to the authority contained in sections 4 (i), 301 and 303 of the Communications Act of 1934, as amended, a hearing will be held on the following issues:

a. To determine under what circumstances, if any, mobile relay stations should be licensed under Parts 11 and 16 of the Commission's rules for the purpose of providing extended range point-to-mobile communications; and

b. To determine under what circumstances, if any, operational fixed (control) stations associated with mobile relay stations licensed under Parts 11 and 16 of the Commission's rules should be permitted to operate on frequencies allocated to the mobile service.

4. Any interested person desiring to appear and submit evidence at the hearing shall file a notice of appearance with the Commission on or before October 15, 1951. Such persons, or any other interested persons desiring to comment on the matters set forth in the above issues, may file a brief or written statement with the Commission on or before October 26, 1951. Any replies to comments should be filed on or before November 9, 1951. Fifteen copies of each notice of appearance, brief or written comment should be filed as required by § 1.764 of the Commission's rules and regulations.

Released: August 15, 1951.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 51-10026; Filed, Aug. 21, 1951; 8:52 a. m.]

[1] See F. R. Doc. 51-10029, Title 47, Chapter I, *supra.*

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SMALL TRACT CLASSIFICATION NO. 43

AUGUST 17, 1951.

Pursuant to the authority delegated to me by the Director, Bureau of Land Management, under § 2.21 of Order No. 427, approved by the Secretary of the Interior August 16, 1950 (15 F. R. 5641), I hereby classify as hereinafter indicated under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. Sec. 682a), as amended, the following described public lands in the Anchorage, Alaska Land District, comprising 36 tracts embracing approximately 108.47 acres, for lease and sale:

HOMER AREA

MILLER'S LANDING UNIT

For Cabin Sites

SEWARD MERIDIAN

T. 6 S., R. 13 W.,

Sec. 14: Lot 1; Lot 2; Lot 3, that portion which would be if described in terms of a normal subdivision: E½NE¼SW¼, NW¼SE¼, NE¼NW¼.

2. The lands are located approximately three and one-half miles northeast of Homer, Alaska, in the vicinity of Miller's Landing. The majority of the tracts front on Kachemak Bay, and are accessible only by boat via Kachemak Bay or by foot from the nearest access road, located one quarter mile to the north. Generally level, the lands vary in elevation above Kachenak Bay from 12 feet in the northern portion to 60 feet in the southern portion. Adequate water for domestic purposes can be obtained from wells, and sewage disposal may be made by the use of cesspools. No public facilities are obtainable in the area at the present time. The climate is distinctively marine influenced with comparatively mild winters and moderately cool summers. The average January temperature is 25.4 degrees, and the average July temperature is 53.8 degrees.

3. Pursuant to § 257.9 of the Code of Federal Regulations (43 CFR Part 257), a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to this classification, and (b) are of the type of site for which the lands subject thereunder have been classified. As to such applications, this order shall become effective upon the date which it is signed.

4. As to the lands not covered by the applications referred to in paragraph 3, this order shall not become effective to permit the leasing of such land under the Small Tract Act of June 1, 1938, cited above, until 10:00 a. m. on September 6, 1951. At that time such land shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for other preference right filings.* For a period of 90 days from 10:00 a. m. on September 6, 1951, to close of business on December 4, 1951, inclusive, to (1) application under the Small Tract Act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. 279, 282), as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on August 17, 1951, or thereafter, up to and including 10:00 a. m. on September 6, 1951, shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public land laws.* Commencing at 10:00 a. m. on December 5, 1951, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference right filings.* Applications under the Small Tract Act by the general public filed on November 15, 1951, or thereafter, up to and including 10:00 a. m. on December 5, 1951, shall be treated as simultaneously filed.

5. A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claim. Persons asserting preference rights, through settlement or otherwise, and those having equitable claim, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

6. All applications referred to in paragraphs 3 and 4, which shall be filed in the Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

7. Lessees under the Small Tract Act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances, are presentable, substantial and appropriate for the use for which the lease is issued. Leases will be for a period of not more than three years, at an annual rental of $5.00, payable in advance for the entire lease period. Every lease will contain an option to purchase clause and every lessee may file an application to purchase at the sale price as provided in the lease.

8. All of the land will be leased in tracts varying in size from approximately 2 acres to approximately 6 acres, in accordance with the classification map on file in the Land Office, Anchorage, Alaska. The tracts where possible are made to conform in description with the rectangular system of survey, in compact units.

9. All sewage disposal facilities will be located not less than 75 feet from the exterior boundaries of the tract described in the lease, provided, however, that if said tract abuts upon any stream, lake or other body of fresh water, no sewage disposal facility shall be placed within 100 feet of any such water. If the tract described in the lease is located upon sloping lands, lessee should locate any well or sewage disposal facility according to the recommendations of the Alaska Territorial Department of Health.

10. The leases will be made subject to rights-of-way for road purposes and public utilities, of 33 feet in width, on each side of the tracts contiguous to the section and/or quarter section lines, or as shown on the classification maps on file in the Land Office, Anchorage, Alaska. Such rights-of-way may be utilized by the Federal Government, or the State or Territory, county or municipality, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

11. All inquiries relating to these lands shall be addressed to the Manager, Land Office, Anchorage, Alaska.

ABE BARBER,
Acting Regional Administrator.

[F. R. Doc. 51-10061; Filed, Aug. 22, 1951; 8:47 a. m.]

ALASKA

SHORE SPACE RESTORATION NO. 463

AUGUST 17, 1951.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372), and in accordance with § 2.22 (3) of Order No. 427, approved by

the Secretary of the Interior August 16, 1950 (15 F. R. 5641), it is hereby determined that the lands described below are not necessary for harborage uses and purposes and that no shore space reserve in such lands shall now or hereafter be created under the act of May 14, 1898 (30 Stat. 409), as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371) by the initiation of claims under the public land laws:

Unsurveyed lands, which when surveyed will be identified as follows:

FAIRBANKS MERIDIAN

T. 2 S., R. 1 E.,
Sec. 1: Lots 1, 2, 3, 4, 5, 6, 8, 9, 10, 11;
Sec. 2: Lots 2, 3, 4, 5, 6, 7 NW¼NE¼;
Sec. 3: Lots 1, 2, 3.

Containing approximately 451.23 acres.

ABE BARBER,
Acting Regional Administrator.

[F. R. Doc. 51-10062; Filed, Aug. 22, 1951; 8:47 a. m.]

[Misc. No. 59162]

OREGON AND WASHINGTON

RESTORATION ORDER NO. 1305 UNDER FEDERAL POWER ACT

AUGUST 16, 1951.

Pursuant to the following-listed determinations of the Federal Power Commission and in accordance with Departmental Order No. 2583, § 2.22 (a) of August 16, 1950 (15 F. R. 5643), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the following-described public lands, so far as they are withdrawn or reserved for power purposes, are hereby opened to disposition under the applicable public-land laws as provided below, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075 (16 U. S. C. 818) as amended:

Determination No.	Dates and types of withdrawal	Type of restoration	Description of lands
DA-395...	Power project No. 850, effective Nov. 28, 1927.	Under the applicable public land laws.	T. 10 S., R. 6 E., W. M., Oregon, sec. 16, S½SW¼NW¼SE¼, containing 5 acres.
The above-described land is within the Willamette National Forest.			
DA-398...	Power site reserve No. 273 of May 28, 1912.	Under the applicable public land laws.	T. 21 S., R. 8 W., W. M., Oregon, sec. 2, SW¼SW¼; sec. 4, SE¼NE¼, E½SW¼, and SE¼, containing 320 acres.
The above-described lands are within the Siuslaw National Forest.			
DA-111...	Power site classification No. 126 of Jan. 23, 1926.	For mining purposes only...	T. 39 N., R. 7 E., W. M., Washington, sec. 4, lots 5, 8, and SE¼NW¼, containing 102.15 acres.
The above-described lands are within the Mount Baker National Forest.			
DA-106...	Power site classification No. 214 of Dec. 6, 1928.	Under the applicable public land laws.	T. 34 N., R. 21 E., W. M., Washington, sec. 1, lots 1 and 5, containing 45.29 acres.

The lands described shall be subject to application by the respective States in which they are located for a period of ninety days from the date of the publication of this order in the FEDERAL REGISTER for rights-of-way for public highways, or as a source of material for the construction and maintenance of such highways, as provided by section 24 of the Federal Power Act, as amended.

As to said determination DA-111 Washington, the restoration is made subject to the stipulation that, if and when the lands are required wholly or in part for purposes of power development, any structures, machinery, or improvements placed thereon which shall be found to interfere with such development shall be removed or relocated as may be necessary to eliminate interference with the power development without expense to the United States or its permittees or licensees.

Lots 1 and 5, sec. 1, T. 34 N., R. 21 E., W. M., Washington, are chiefly valuable for recreational and homesite use. No application for said lots may be allowed under the homestead, small-tract, or desert-land laws, or any other non-mineral public-land laws unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 91st day after the date of its publication in the FEDERAL REGISTER. At that time the said lands shall become subject to application, petition, location and selection, subject to the requirements of applicable law and the 90-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279-284), as amended.

MARION CLAWSON,
Director.

[F. R. Doc. 51-10063; Filed, Aug. 22, 1951; 8:47 a. m.]

[Misc. No. 1351072]

ARIZONA AND OREGON

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS RESTORED FROM FEDERAL POWER PROJECTS

AUGUST 16, 1951.

Pursuant to the following vacation orders of the Federal Power Commission, the public lands within the areas described are hereby restored to disposition under the applicable public land laws from the withdrawals for Federal Power Projects named, subject to valid existing rights and the provisions of existing withdrawals:

Order of the Federal Power Commission dated August 2, 1949, partially vacating the withdrawal of February 19, 1927, for Federal Power Project No. 767:

ARIZONA

GILA AND SALT RIVER MERIDIAN

T. 13 N., R. 6 W.,
Sec. 12, lot 9.
T. 12 N., R. 8 W.,
Sec. 4, lots 1, 2, 3, NW¼SE¼, SW¼;
Sec. 8, E½NE¼, SE¼;
Sec. 9, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 17, E½;
Sec. 20, E½E½;
Sec. 21, SW¼NW¼.
T. 13 N., R. 8 W.,
Sec. 13, NE¼NE¼, S½NE¼, SW¼, NW¼SE¼;
Sec. 14, SE¼SE¼;
Sec. 22, S½SE¼;
Sec. 23, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 27, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 28, E½SE¼;
Sec. 33, E½E½.
T. 12 N., R. 9 W.,
Sec. 30, lots 3, 4, E½SW¼, W½SE¼;
Sec. 31, NW¼NE¼, S½NE¼, E½NW¼, N½SE¼;
Sec. 33, S½;
Sec. 34, S½;
Sec. 35, S½.
T. 11 N., R. 10 W.,
Sec. 3, lot 1, S½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 7, SE¼SE¼;
Sec. 8, SW¼, N½SE¼, SE¼SE¼;
Sec. 9, S½;
Sec. 10, NW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼;
Sec. 17, NW¼NW¼;
Sec. 18, E½NE¼, SE¼;
Sec. 19, E½;
Sec. 30, lots 3, 4, W½NE¼, E½NW¼, E½SW¼.
T. 12 N., R. 10 W.,
Sec. 25, NE¼SE¼, S½SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, SW¼, N½SE¼, SW¼SE¼.
T. 10 N., R. 11 W.,
Sec. 11, W½E½;
Sec. 14, W½E½, NE¼SW¼, S½SW¼;
Sec. 19, lots 1, 2, 3, E½NW¼, N½NE¼;
Sec. 20, NE¼, N½NW¼, SE¼NW¼;
Sec. 21, NW¼NW¼, S½N½, NE¼SE¼;
Sec. 22, NE¼NE¼, S½N½, N½SW¼, NW¼SE¼;
Sec. 23, N½NW¼, SW¼NW¼.
T. 11 N., R. 11 W.,
Sec. 25, S½SE¼;
Sec. 35, E½SE¼.
T. 10 N., R. 12 W.,
Sec. 15, SW¼, SW¼SE¼;
Sec. 17, S½S½;
Sec. 18, lots 2, 3, 4, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 22, E½, NE¼NW¼;

Sec. 23, SE¼SE¼;
Sec. 24, SE¼NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 25, NW¼NW¼;
Sec. 26, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼;
Sec. 27, NE¼.
T. 10 N., R. 13 W.
Sec. 8, NE¼SE¼, S½SE¼, SE¼SW¼;
Sec. 9, SW¼NW¼, S½;
Sec. 12, S½SW¼;
Sec. 13, NW¼NE¼, S½NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 14, N½N½;
Sec. 15, N½NE¼, SW¼NE¼, NW¼;
Sec. 17, lots 1, 2, NE¼NW¼, N½NE¼;
Sec. 18, lots 5, 6, 8, 9, E½SW¼, SW¼SE¼;
Sec. 19, lot 1, NE¼NW¼.
T. 10 N., R. 14 W., partly unsurveyed,
Sec. 7, N½S½;
Sec. 8, SW¼, S½SE¼;
Sec. 17, N½NE¼, SE¼NE¼;
Sec. 21, N½NE¼, SE¼NE¼;
Sec. 22, NW¼, S½NE¼;
Sec. 23, S½N½;
Sec. 24, N½.
T. 10 N., R. 15 W., partly unsurveyed,
Sec. 6, lot 4;
Sec. 8, SW¼SW¼;
Sec. 10, S½SE¼, SE¼SW¼;
Sec. 11, S½S½;
Sec. 12, S½;
Sec. 15, NW¼NE¼, N½NW¼;
Sec. 16, N½;
Sec. 17, N½;
Sec. 18, NE¼NE¼.
T. 10 N., R. 16 W.,
Sec. 1, S½NW¼, N½S½;
Sec. 2, SE¼NE¼, N½SE¼;
Sec. 4, NW¼NW¼, S½N½, N½SE¼, NE¼SW¼;
Sec. 5, N½NE¼, SE¼NE¼, NE¼NW¼.
T. 11 N., R. 16 W.,
Sec. 31, lots 5, 6, 7, 8, 9.
T. 11 N., R. 17 W.,
Sec. 28, SE¼SE¼;
Sec. 34, S½;
Sec. 36, SE¼.

The areas described, including both public and non-public lands, aggregate 16,423.90 acres.

Portions of the above-described lands are within grazing districts, and all of the lands described in said T. 11 N., R. 17 W., G. and S. R. M., are within a first form reclamation withdrawal established by the Secretary of the Interior on June 4, 1930.

The following-described lands are included in applications by the State of Arizona for exchange under the act of June 28, 1934, as amended by the act of June 26, 1936, 49 Stat. 1976 (43 U. S. C. 315g):

GILA AND SALT RIVER MERIDIAN

T. 12 N., R. 9 W.,
Sec. 30, lots 3, 4, E½SW¼, and W½SE¼;
Sec. 31, NW¼NE¼, S½NE¼, E½NW¼, and N½SE¼;
Sec. 33, S½;
Sec. 34, N½S½.
T. 12 N., R. 10 W.,
Sec. 25, NE¼SE¼ and S½SE¼.

The areas described contain 1,113.42 acres.

Order of the Federal Power Commission dated May 11, 1948, vacating the withdrawal of December 28, 1920, for Federal Power Project No. 143:

OREGON

WILLAMETTE MERIDIAN

T. 39 S., R. 22 E.,
Sec. 1, E½SW¼;
Sec. 12, N½ and N½SE¼.
T. 39 S., R 23 E.,
Secs. 7, 8, 9, and 10, inclusive;
Sec. 11, SW¼;
Sec. 14;
Sec. 15, S½;
Sec. 19, SE¼;
Sec. 20;
Sec. 21, N½ and SW¼;
Sec. 22, N½;
Sec. 29, N½NW¼;
Sec. 30, N½ and SW¼.

The areas described, including both public and non-public lands, aggregate approximately 6,240 acres.

The above-described lands are within Oregon Grazing District No. 2 established by the Secretary of the Interior on July 9, 1935 and portions are within Power Site Reserve No. 265 established by Executive order of April 29, 1912 or Power Site Reserve No. 429 established by Executive order of April 3, 1914.

The above-described lands in Arizona and Oregon are primarily suitable for grazing. No application for the unreserved, unappropriated land may be allowed under the homestead, small tract, or desert-land laws, or any other non-mineral public land laws unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application.

Effective on the date of publication of this order in the FEDERAL REGISTER, the unreserved public lands affected by this order shall be subject to application by the States of Arizona and Oregon, respectively, for rights-of-way for public highways or as a source of material for the construction and maintenance of such highways, pursuant to section 24 of the Federal Power Act as amended by the act of May 28, 1948, 62 Stat. 275 (16 U. S. C. 1946 Ed. Supp. III, sec. 818).

This order shall not otherwise affect the status of the lands until the ninety-first day after publication of this order in the FEDERAL REGISTER. At that time the said unreserved, unappropriated land shall become subject to application, petition, location and selection, subject to the provisions of existing withdrawals, the requirements of applicable law and the 90-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended.

Inquiries concerning these lands should be addressed to the Land and Survey Office, at Phoenix, Arizona, or the Land Office at Portland, Oregon.

MARION CLAWSON,
Director.

[F. R. Doc. 51–10064; Filed, Aug. 22, 1951; 8:47 a. m.]

NEW MEXICO

STOCK DRIVEWAY WITHDRAWAL NO. 16

AUGUST 17, 1951.

By virtue of the authority contained in section 10 of the act of December 29, 1916, 39 Stat. 865, as amended by the act of January 29, 1929, 45 Stat. 1144 (43 U. S. C. 300), and in section 7 of the act of June 28, 1934, 48 Stat. 1272, as amended by the act of June 26, 1936, 49 Stat. 1976 (43 U. S. C. 315f), and pursuant to the authority delegated by the Director, Bureau of Land Management, in § 2.22 (a) (1) of Order No. 427, dated August 16, 1950, 15 F. R. 5639, it is ordered as follows:

The following-described public lands in New Mexico are hereby classified as necessary and suitable for stock-driveway purposes, and, excepting any mineral deposits therein, are withdrawn from all disposal under the public-land laws and reserved, subject to valid existing rights, for the use of the general public, the reservation to be known as Stock Driveway Withdrawal No. 16, New Mexico:

NEW MEXICO PRINCIPLE MERIDIAN

T. 29 N., R. 12 W.,
Sec. 26: N½NW¼NW¼;
Sec. 27: N½NE¼NE¼, SW¼NE¼NE¼, N½NW¼NE¼, SE¼NW¼NE¼.
T. 29 N., R. 13 W.,
Sec. 7: NW¼NW¼NE¼, W½SW¼NW¼NE¼, SE¼NW¼, Lot 1.

The areas described aggregate 139.64 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

HAROLD T. TYSK,
Acting Regional Administrator.

[F. R. Doc. 51–10065; Filed, Aug. 22, 1951; 8:48 a. m.]

NEW MEXICO

NOTICE FOR FILING OBJECTIONS TO STOCK DRIVEWAY WITHDRAWAL NO. 16 [1]

AUGUST 17, 1951.

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may file their objections in duplicate in the Land and Survey Office at Sante Fe, New Mexico. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

HAROLD T. TYSK,
Acting Regional Administrator.

[F. R. Doc. 51–10066; Filed, Aug. 22, 1951; 8:48 a. m.]

[1] See F. R. Doc. 51–10065, *supra*.

Geological Survey

NOOKSACK RIVER, WASHINGTON

POWER SITE CLASSIFICATION NO. 418

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31), and by Departmental Order No. 2333 of June 10, 1947 (43 C. F. R. 4.623; 12 F. R. 4025), the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of sec. 24 of the act of June 10, 1920, as amended by sec. 211 of the act of August 26, 1935 (16 U. S. C. 818):

WILLAMETTE MERIDIAN, WASHINGTON

T. 40 N., R. 8 E.,
Sec. 36, lots 1, 3, and 5, N½SE¼.
T. 40 N., R. 9 E.,
Sec. 31, lot 4.

The area described aggregates 160.20 acres.

Dated: August 16, 1951.

JULIAN D. SEARS,
Acting Director.

[F. R. Doc. 51-10071; Filed, Aug. 22, 1951; 8:49 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Ceiling Price Regulation 7, Section 43, Special Order 435]

RUBON WOODFINISHING & PRODUCTS CO., INC.

CEILING PRICES AT WHOLESALE AND RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Rubon Woodfinishing & Products Company, Inc., 500 West Seventh Street, Kansas City 6, Missouri, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant and intermediate distributors are required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. *Ceiling prices.* The ceiling prices for sales at retail of dust mops, dusters, dust cloths, rubon polish, scrub mops and applicators sold through wholesalers and retailers and having the brand name(s) "Rubon" shall be the proposed retail ceiling prices listed by Rubon Woodfinishing & Products Company, Inc., hereinafter referred to as the "applicant" in its application dated June 27, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C.

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 15, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may be made, of course, at less than the ceiling prices.

2. *Marking and tagging.* On and after October 15, 1951, Rubon Woodfinishing & Products Co., Incorporated must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order or attach to the article a label, tag, or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after November 14, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 14, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply as to each such article with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer must comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. *Notification to resellers*—(a) *Notices to be given by applicant.* (1) After receipt of this special order, a copy of this special order and the notice described below shall be sent by the applicant to each purchaser for resale on or before the date of the first delivery of any article covered in paragraph 1 of this special order.

(2) Within 15 days after the effective date of this special order, the applicant shall send a copy of this special order and the notice described below to each purchaser for resale to whom within 2 months immediately prior to the receipt of this special order the applicant had delivered any article covered by paragraph 1 of this special order.

(3) The applicant must notify each purchaser for resale of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described below.

(4) The applicant shall annex to this special order or amendment a notice listing the style or lot number, name, or other description of each item covered by this special order or amendment and its corresponding retail ceiling price. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Item (style or lot number or other description)	Retailer's ceiling price for articles listed in column 1
----------	$----------

(5) Within 15 days after the effective date of this special order or any amendment thereto, two copies of the ceiling price notice above described must be filed by the applicant with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

(6) The applicant must supply each purchaser for resale other than a retailer with sufficient copies of this special order, amendment and notices to permit such purchasers for resale to comply with the notification requirements of this special order.

(b) *Notices to be given by purchasers for resale (other than retailers).* (1) A copy of this special order, together with the annexed notice of ceiling prices described in subparagraph (a) (4) of this section, shall be sent by each purchaser for resale (other than retailers) to each of his purchasers on or before the date of the first delivery after receipt of a copy of this special order.

(2) Within 15 days of receipt of this special order and the annexed notice, each purchaser for resale (other than retailers) shall send a copy of the order and notice to each of his purchasers to whom, within two months prior to receipt of this special order, his records indicate he had delivered any article covered by paragraph 1 of this special order.

(3) Each purchaser for resale (other than retailers) must notify each purchaser of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described above.

4. *Reports.* Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. *Other regulations affected.* The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it, regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. *Revocation.* This special order or any provisions thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. *Applicability.* The provisions of this special order are applicable in the United States and the District of Columbia.

Effective date. This special order shall become effective August 16, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9893; Filed, Aug. 15, 1951; 4:12 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 436]

MARCUS BREIER SONS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Marcus Breier Sons, Inc., 20 Hamilton Street, Amsterdam, New York.

Brand name: "Bantamac".

Articles: men's outerwear and sportswear jackets.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag, or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendent to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in Section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in Section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$------ per------{unit. dozen. etc.	Terms{net. percent EOM. etc. $--------

9. *Pre-ticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $--------

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 16, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9896; Filed, Aug. 15, 1951; 4:32 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 444]

SO-LO MARX RUBBER CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, So-Lo Works, Inc., D/B/A So-Lo Marx Rubber Co., Loveland, Ohio, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant and intermediate distributors are required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. *Ceiling prices.* The ceiling prices for sales at retail of women's and children's rubber footwear sold through wholesalers and retailers and having the brand name(s) "MARXIE-totes" and "OVERSHOE-totes" shall be the proposed retail ceiling prices listed by So-Lo Works, Inc., D/B/A So-Lo Marx Rubber Co., Loveland, Ohio hereinafter referred to as the "applicant" in its application dated July 5, 1951 and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may be made, of course, at less than the ceiling prices.

2. *Marking and tagging.* On and after October 16, 1951, So-Lo Works, Inc., D/B/A So-Lo Marx Rubber Co. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order or attach to the article a label, tag, or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the application, or changes the retail ceiling price of a listed article, the applicant named in this special order must comply as to each such article with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60 day period, unless the article is so ticketed, the retailer must comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. *Notification to resellers.*—(a) *Notices to be given by applicant.* (1) After receipt of this special order, a copy of this special order and the notice described below shall be sent by the applicant to each purchaser for resale on or before the date of the first delivery of any article covered in paragraph 1 of this special order.

(2) Within fifteen days after the effective date of this special order, the applicant shall send a copy of this special order and the notice described below to each purchaser for resale to whom within two months immediately prior to the receipt of this special order the applicant had delivered any article covered by paragraph 1 of this special order.

(3) The applicant must notify each purchaser for resale of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described below.

(4) The applicant shall annex to this special order or amendment a notice listing the style or lot number, name, or other description of each item covered by this special order or amendment and its corresponding retail ceiling price. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Item (style or lot number or other description)	Retailer's ceiling price for articles listed in column 1
----------	$----------

(5) Within 15 days after the effective date of this special order or any amendment thereto, two copies of the ceiling price notice above described must be filed by the applicant with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

(6) The applicant must supply each purchaser for resale other than a retailer with sufficient copies of this special order, amendment and notices to permit such purchasers for resale to comply with the notification requirements of this special order.

(b) *Notices to be given by purchasers for resale (other than retailers).* (1) A copy of this special order, together with the annexed notice of ceiling prices described in subparagraph (a) (4) of this section, shall be sent by each purchaser for resale (other than retailers) to each of his purchasers on or before the date of the first delivery after receipt of a copy of this special order.

(2) Within 15 days of receipt of this special order and the annexed notice, each purchaser for resale (other than retailers) shall send a copy of the order and notice to each of his purchasers to whom, within two months prior to receipt of this special order, his records indicate he had delivered any article covered by paragraph 1 of this special order.

(3) Each purchaser for resale (other than retailers) must notify each purchaser of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described above.

4. *Reports.* Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. *Other regulations affected.* The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it, regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. *Revocation.* This special order or any provisions thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. *Applicability.* The provisions of this special order are applicable in the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9941; Filed, Aug. 16, 1951; 3:17 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 445]

BERNS MANUFACTURING CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Berns Manufacturing Corporation, 3050 North Rockwell Street, Chicago 18, Illinois, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant and intermediate distributors are required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. *Ceiling prices.* The ceiling prices for sales at retail of window fans and floor circulators sold through wholesalers and retailers and having the brand name(s) "Berns Air King" shall be the proposed retail ceiling prices listed by Berns Manufacturing Corporation, 3050 North Rockwell Street, Chicago 18, Illinois, hereinafter referred to as the "applicant" in its application dated June 9, 1951 and filed with the Office of Price Stabilization, Washington 25, D. C.

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may be made, of course, at less than the ceiling prices.

2. *Marking and tagging.* On and after October 16, 1951, Berns Manufacturing Corporation must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order or attach to the article a label, tag, or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $ --------

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply as to each such article with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer must comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. *Notification to resellers.*—(a) *Notices to be given by applicant.* (1) After receipt of this special order, a copy of this special order and the notice described below shall be sent by the applicant to each purchaser for resale on or before the date of the first delivery of any article covered in paragraph 1 of this special order.

(2) Within fifteen days after the effective date of this special order, the applicant shall send a copy of this special order and the notice described below to each purchaser for resale to whom within two months immediately prior to the receipt of this special order the applicant had delivered any article covered by paragraph 1 of this special order.

(3) The applicant must notify each purchaser for resale of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described below.

(4) The applicant shall annex to this special order or amendment a notice listing the style or lot number, name, or other description of each item covered by this special order or amendment and its corresponding retail ceiling price. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Item (style or lot number or other description)	Retailer's ceiling price for articles listed in column 1
----------	$----------

(5) Within 15 days after the effective date of this special order or any amendment thereto, two copies of the ceiling price notice above described must be filed by the applicant with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

(6) The applicant must supply each purchaser for resale other than a retailer with sufficient copies of this special order, amendment and notices to permit such purchasers for resale to comply with the notification requirements of this special order.

(b) *Notices to be given by purchasers for resale (other than retailers).* (1) A copy of this special order, together with the annexed notice of ceiling prices described in subparagraph (a) (4) of this section, shall be sent by each purchaser for resale (other than retailers) to each of his purchasers on or before the date of the first delivery after receipt of a copy of this special order.

(2) Within 15 days of receipt of this special order and the annexed notice, each purchaser for resale (other than retailers) shall send a copy of the order and notice to each of his purchasers to whom, within two months prior to receipt of this special order, his records indicate he had delivered any article covered by paragraph 1 of this special order.

(3) Each purchaser for resale (other than retailers) must notify each purchaser of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described above.

4. *Reports.* Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. *Other regulations affected.* The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it, regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. *Revocation.* This special order or any provisions thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. *Applicability.* The provisions of this special order are applicable in the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9942; Filed, Aug. 16, 1951; 8:17 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 446]

HERSCHEDE HALL CLOCK CO.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers. 1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below.

Name and address of applicant: The Herschede Hall Clock Company, McMillian and Essex Place, Cincinnati 6, Ohio.

Brand names: "Herschede" and "Revere".

Articles: Chime clocks.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the Applicant—7. Notification to retailers. As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in Section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling Price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1

$_____ per_____{unit. / dozen. / etc.} Terms{net. / percent EOM. / etc.}
$_____

9. *Preticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $_____

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9943; Filed, Aug. 16, 1951; 8:18 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 447]

RANDOLPH FURNITURE CO., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Randolph Furniture Co., Inc., Salisbury Street, Randolph, Vermont, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required un-

der this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of facts submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of household furniture manufactured by Randolph Furniture Co., Inc., Salisbury Street, Randolph, Vermont, having the brand name(s) "Ye Olde Randolph House" shall be the proposed retail ceiling prices listed by Randolph Furniture Co. in its application dated April 27, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after October 16, 1951, Randolph Furniture Co., Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$------ per------{unit. dozen. etc.	Terms{net. percent EOM. etc. $-------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6-month period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9944; Filed, Aug. 16, 1951; 3:18 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 448]

NATIONAL PRODUCTION CO.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, National Production Company, 4561-4603 St. Jean Avenue, Detroit 13, Michigan, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of infant and juvenile specialties manufactured by National Production Company, 4561–4603 St. Jean Avenue, Detroit 13, Michigan, having the brand name(s) "Teeterbabe" shall be the proposed retail ceiling prices listed by National Production Company in its application dated April 24, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after October 16, 1951, National Production Company must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

On and after November 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in Paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$_____ per_____{unit. / dozen. / etc.} Terms{net. / percent EOM. / etc.}	$_____

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6-month period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51–9945; Filed, Aug. 16, 1951; 3:18 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 449]

PICKARD, INC.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers. 1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Pickard, Incorporated, Corona Avenue, Antioch, Illinois.

Brand names: "Pickard China" and "Pickard Ravenswood".

Articles: dinnerware.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceil-

ing price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to preticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the applicant. 7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in Section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1

$_____ per_____{unit. / dozen. / etc.} Terms {net. / percent EOM. / etc.}
$_____

9. *Preticketing requirements.* As the applicant to whom this special order is issued, you must ,within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $--------

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9946; Filed, Aug. 16, 1951; 3:19 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 450]

STANDARD KNITTING MILLS, INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Standard Knitting Mills, Inc., Knoxville 3, Tennessee, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant and intermediate distributors are required to send purchasers of the article a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special Provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. *Ceiling prices.* The ceiling prices for sales at retail of knit underwear, sportswear, and sleepwear sold through wholesalers and retailers and having the brand name(s) "Healthknit" shall be the proposed retail ceiling prices listed by Standard Knitting Mills, Inc., Knoxville 3, Tennessee, hereinafter referred to as the "applicant" in its application dated May 15, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. (and supplemented and amended in the manufacturer's application dated August 2, 1951).

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may be made, of course, at less than the ceiling prices.

2. *Marking and tagging.* On and after October 16, 1951, Standard Knitting Mills, Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order or attach to the article a label, tag, or ticket stating the retail

ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply as to each such article with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60 day period, unless the article is so ticketed, the retailer must comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. *Notification to resellers.*—(a) *Notices to be given by applicant.* (1) After receipt of this special order, a copy of this special order and the notice described below shall be sent by the applicant to each purchaser for resale on or before the date of the first delivery of any article covered in paragraph 1 of this special order.

(2) Within fifteen days after the effective date of this special order, the applicant shall send a copy of this special order and the notice described below to each purchaser for resale to whom within two months immediately prior to the receipt of this special order the applicant had delivered any article covered by paragraph 1 of this special order.

(3) The applicant must notify each purchaser for resale of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described below.

(4) The applicant shall annex to this special order or amendment a notice listing the style or lot number, name, or other description of each item covered by this special order or amendment and its corresponding retail ceiling price. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Item (style or lot number or other description)	Retailer's ceiling price for articles listed in column 1
----------	$----------

(5) Within 15 days after the effective date of this special order or any amendment thereto, two copies of the ceiling price notice above described must be filed by the applicant with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

(6) The applicant must supply each purchaser for resale other than a retailer with sufficient copies of this special order, amendment and notices to permit such purchasers for resale to comply with the notification requirements of this special order.

(b) *Notices to be given by purchasers for resale (other than retailers).* (1) A copy of this special order, together with the annexed notice of ceiling prices described in subparagraph (a) (4) of this section, shall be sent by each purchaser for resale (other than retailers) to each of his purchasers on or before the date of the first delivery after receipt of a copy of this special order.

(2) Within 15 days of receipt of this special order and the annexed notice, each purchaser for resale (other than retailers) shall send a copy of the order and notice to each of his purchasers to whom, within two months prior to receipt of this special order, his records indicate he had delivered any article covered by paragraph 1 of this special order.

(3) Each purchaser for resale (other than retailers) must notify each purchaser of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described above.

4. *Reports.* Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. *Other regulations affected.* The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it, regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. *Revocation.* This special order or any provisions thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. *Applicability.* The provisions of this special order are applicable in the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9947; Filed, Aug. 16, 1951; 3:19 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 451]

MASTER CLOTHES, INC.

CEILING PRICES AT RETAIL

Statement of Considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for Retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Master Clothes, Inc., 1133 Arch Street, Philadelphia 7, Pennsylvania.

Brand names: "Botany Brand 2-2-22 Tailored by Master Clothes".

Articles: boys' outerwear.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail

ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS-Sec. 43-CPR 7
Price $--------

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the applicant—7. Notification to retailers. As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost-listed in column 1
$------ per------{unit, dozen, etc.	Terms {net, percent EOM, etc. $--------

9. *Pre-ticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $ --------

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9948; Filed, Aug. 16, 1951; 3:19 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 452]

CONCORD WATCH CO., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Concord Watch Co., Inc., 10 West Forty-seventh Street, New York 19, New York, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant and intermediate distributors are required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. *Ceiling prices.* The ceiling prices for sales at retail of watches and clocks sold through wholesalers and retailers and having the brand name(s) "Concord" shall be the proposed retail ceiling prices listed by Concord Watch Co., Inc., 10 West Forty-Seventh Street, New York 19, New York, hereinafter referred to as the "applicant" in its application dated June 7, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C.

A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may be made, of course, at less than the ceiling prices.

2. *Marking and tagging.* On and after October 16, 1951, Concord Watch Co., Inc., must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order or attach to the article a label, tag, or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply as to each such article with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is tick-

eted in accordance with the requirements of this paragraph. Prior to the expiration of the 60 day period, unless the article is so ticketed, the retailer must comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

3. *Notification to resellers.*—(a) *Notices to be given by applicant.* (1) After receipt of this special order, a copy of this special order and the notice described below shall be sent by the applicant to each purchaser for resale on or before the date of the first delivery of any article covered in paragraph 1 of this special order.

(2) Within fifteen days after the effective date of this special order, the applicant shall send a copy of this special order and the notice described below to each purchaser for resale to whom within two months immediately prior to the receipt of this special order the applicant had delivered any article covered by paragraph 1 of this special order.

(3) The applicant must notify each purchaser for resale of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described below.

(4) The applicant shall annex to this special order or amendment a notice listing the style or lot number, name, or other description of each item covered by this special order or amendment and its corresponding retail ceiling price. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Item (style or lot number or other description)	Retailer's ceiling price for articles listed in column 1
----------	$----------

(5) Within 15 days after the effective date of this special order or any amendment thereto, two copies of the ceiling price notice above described must be filed by the applicant with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

(6) The applicant must supply each purchaser for resale other than a retailer with sufficient copies of this special order, amendment and notices to permit such purchasers for resale to comply with the notification requirements of this special order.

(b) *Notices to be given by purchasers for resale (other than retailers).* (1) A copy of this special order, together with the annexed notice of ceiling prices described in subparagraph (a) (4) of this section, shall be sent by each purchaser for resale (other than retailers) to each of his purchasers on or before the date of the first delivery after receipt of a copy of this special order.

(2) Within 15 days of receipt of this special order and the annexed notice, each purchaser for resale (other than retailers) shall send a copy of the order and notice to each of his purchasers to whom, within two months prior to receipt of this special order, his records indicate he had delivered any article covered by paragraph 1 of this special order.

(3) Each purchaser for resale (other than retailers) must notify each purchaser of any amendment to this special order in the same manner, annexing to the amendment an appropriate notice as described above.

4. *Reports.* Within 45 days of the expiration of the first 6 months period following the effective date of this special order and within 45 days of the expiration of each successive 6 months period, the applicant shall file with the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months period.

5. *Other regulations affected.* The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it, regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

6. *Revocation.* This special order or any provisions thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

7. *Applicability.* The provisions of this special order are applicable in the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9949; Filed, Aug. 16, 1951; 3:20 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 453]

KNAPE AND VOGT MFG. CO.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Knape and Vogt Manufacturing Company, Grand Rapids, Michigan.

Brand names: "K-Venience".

Articles: garment racks, shoe racks, tie racks, hat holders, clothes carriers, necktie racks, closet rods, trouser and skirt hangers, over-door hangers, pan racks, towel racks, and hangers (with trouser bar).

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS–Sec. 43—CPR 7
Price $---------

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag

such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 States and the District of Columbia.

Provisions for the applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling Price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$_____ per_____{unit. / dozen. / etc.} Terms{net. / percent EOM. / etc.}	$_____

9. *Preticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $_____

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sale volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9950; Filed, Aug. 16, 1951; 3:20 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 454]

KAYLON INC.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for Retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Kaylon, Inc., 180 Madison Avenue, New York City.

Brand names: "Tommies".

Articles: women's pajamas, pajama sets and lounging sets.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to preticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 States and the District of Columbia.

Provisions for the applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list

shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling Price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$_____ per_____{unit. / dozen. / etc.} Terms{net. / percent EOM, / etc.}	$_____

9. *Pre-ticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $_____

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9951; Filed, Aug. 16, 1951; 3:20 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 455]

CONSOLIDATED TRIMMING CORP.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Consolidated Trimming Corporation, 27 West Twenty-third Street, New York, New York.

Brand names: "Simpleat & Drawpleat".

Articles: Drapery tape.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization Washington 25, D. C.

8. *Ceiling price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1

$_____ per_____{unit. / dozen. / etc.} Terms {net. / percent EOM. / etc.}
$_____

9. *Pre-ticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $_____

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9952; Filed, Aug. 16, 1951; 3:21 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 456]

CHARLES DOPPELT & CO., INC.

CEILING PRICES AT RETAIL

Statement of Considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Charles Doppelt & Co., Inc., 2024-26 South Wabash Avenue, Chicago 16, Illinois.

Brand names: "Dopp-kit" and "Brief Master".

Articles: toilet kits, brief bags.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to preticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 states and the District of Columbia.

Provisions for the applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling Price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1

$_____ per_____{unit. / dozen. / etc.} Terms {net. / percent EOM. / etc.}
$_____

9. *Preticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amend-

ment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $--------

Instead of making the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9953; Filed, Aug. 16, 1951; 3:21 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 457]

CROWN FASTENER CORP.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Crown Fastener Corporation, Warren, Rhode Island, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of slide fasteners manufactured by Crown Fastener Corporation, Warren, Rhode Island, having the brand names(s) "Crown" shall be the proposed retail ceiling prices listed by Crown Fastener Corporation in its application dated June 15, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after October 16, 1951, Crown Fastener Corporation must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$------ per------{unit, dozen, etc.} Terms{net, percent EOM, etc.}	$--------

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6-month period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9954; Filed, Aug. 16, 1951; 3:21 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 458]

WIMBLEDON SHIRT CO. INC.

CEILING PRICES AT RETAIL

Statement of considerations. This is an order establishing uniform retail prices issued upon the basis of an application filed by a supplier under section 43 of CPR 7. This section gives a manufacturer or wholesaler the right to apply for uniform retail ceiling prices for certain of his branded articles. This section requires that the articles must customarily have been sold at substantially uniform prices, and the ceiling prices applied for must not raise the general level of prices under CPR 7. The order may, of course, be amended or revoked if further review shows that the requirements of the regulation have not been fully met.

This special order requires each article to be tagged or marked with the retail ceiling price. The supplier must send to each retailer a copy of this special order, as well as a list of ceiling prices for each article or cost line and notice of all amendments. The order requires the supplier to file certain sales reports with OPS.

Retailers will be concerned with sections 1 through 6 of this special order which contain provisions applying to them. The rest of the order is of interest primarily to the applicant.

Order. For the reasons set forth in the Statement of Considerations and pursuant to section 43 of CPR 7, it is ordered that the following provisions be in effect:

Provisions for retailers—1. *What this order does.* Sections 1 through 6 apply to you and establish uniform ceiling prices if you sell at retail the articles identified below:

Name and address of applicant: Wimbledon Shirt Company Inc., 878 Merchandise Mart, Chicago 54, Illinois.

Brand names: "Wimbledon".

Articles: men's sport shirts.

2. *Retail ceiling prices for listed articles.* Your ceiling prices for sales at retail of the articles identified above are the retail prices listed in your supplier's application filed with OPS. These prices will be included in a list which will be annexed to the copy of this order which you will receive from your supplier. The list of ceiling prices will be filed with the Federal Register as an appendix to this special order as soon as practicable. These ceiling prices are effective 10 days after you receive this order and the ceiling price list but in no event later than 60 days after the date this order is issued. You shall not sell above these ceiling prices. You may, of course, sell below these prices.

3. *Retail ceiling prices for unlisted items.* Some or all of the retail ceiling prices in this order are fixed in terms of the cost of the article to you. Whenever you receive one of applicant's branded articles which is in the same category and which has the same net cost as one covered by the list, the ceiling price for such article shall be the same as the ceiling price for the article having that same net cost.

4. *Retail ceiling prices affected by amendment to this order.* This order may be amended from time to time or it may be revoked. If so, the applicant is required to send you a copy of the revocation or amendment, together with any list of changes or additions in retail ceiling prices. The ceiling prices contained in any such amendment become your ceiling prices.

5. *Marking and tagging.* This order requires your supplier to pre-ticket his articles by an early date. The label, tag or ticket must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

After 60 days from the effective date of this order, unless you receive articles marked or tagged in this form, you must so mark or tag them yourself. Before that date you must mark, tag or post your prices in the manner required by the regulation which applies in the absence of this special order.

With respect to articles the ceiling prices of which are affected by any amendment to this order, the same rules apply except that you must mark or tag such articles as stated above not later than 60 days after the effective date of the amendment.

6. *Applicability.* This special order establishes your ceiling prices for the articles covered by it regardless of whether you would otherwise price the articles under CPR 7 or any other regulation. It applies to sales in the 48 States and the District of Columbia.

Provisions for the Applicant—7. *Notification to retailers.* As the manufacturer or wholesaler to whom this special order is issued, you shall do the following:

(a) *Sending order and list to old customers.* Within 15 days after the effective date of this special order, you shall send a copy of this order, together with a copy of the list referred to in section 8 below to each purchaser for resale to whom, within two months immediately prior to the effective date, you had delivered any article covered by this order.

(b) *Notification to new customers.* A copy of this special order and the list shall be sent to all other purchasers for resale on or before the date of the first delivery of any article covered by this order.

(c) *Notification with respect to amendments.* Within 15 days after the effective date of any subsequent amendment to this order, you shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, you had delivered any article included in such amendment. Within 15 days after any amendment, the amendment shall also be included with the notification to new customers.

(d) *Notification to OPS.* Within 15 days of the effective date of this order, you shall send a copy of the list of prices referred to in section 8 below to the Distribution Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C.

8. *Ceiling Price list.* The ceiling price list must be annexed to a copy of the order and shall contain the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling prices fixed by the order. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Price to retailers	Retailer's ceilings for articles of cost listed in column 1
$_____ per_____{unit. dozen. etc.	Terms{net. percent EOM. etc. $_____

9. *Preticketing requirements.* As the applicant to whom this special order is issued, you must, within 60 days after the effective date of this order (or in the case of an amendment within 60 days after the effective date of that amendment), mark each article covered by this order with a statement in the following form:

OPS—Sec. 43—CPR 7
Price $--------

Instead of marking the article you may attach a label, tag or ticket containing the same information.

10. *Sales volume reports.* Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, you shall file with the Distribution Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which you have delivered in that 6-month period.

This special order may be amended or revoked at any time.

Effective date. This special order shall become effective on August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9955; Filed, Aug. 16, 1951; 8:22 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 459]

W. F. WHITNEY CO., INC.

CEILING PRICES AT RETAIL

Statement of considerations. In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, W. F. Whitney Company, Inc., Pleasant Street, South Ashburnham, Massachusetts, has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined on the basis of information available to him, including the data and certified conclusions of fact submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level

of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order, a notice listing retail ceiling prices for each cost line and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during the reporting period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

Special provisions. For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this special order is hereby issued.

1. The ceiling prices for sales at retail of household furniture manufactured by W. F. Whitney Company, Inc., Pleasant Street, South Ashburnham, Massachusetts, having the brand name(s) "Whitney" shall be the proposed retail ceiling prices listed by W. F. Whitney Company, Inc., in its application dated April 6, 1951, and filed with the Office of Price Stabilization, Washington 25, D. C. A list of such ceiling prices will be filed by the Office of Price Stabilization with the Federal Register as an appendix to this special order as soon as practicable. On and after the date of receipt of a copy of this special order, with notice of prices annexed, but in no event later than September 17, 1951, no seller at retail may offer or sell any article covered by this special order at a price higher than the ceiling price established by this special order. Sales may, of course, be made at less than the ceiling prices.

2. The retail ceiling price of an article fixed by paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price and terms of sale to the retailer, the same brand or company name and first sold by the manufacturer after the effective date of this special order.

3. On and after October 16, 1951, W. F. Whitney Company, Inc. must mark each article for which a ceiling price has been established in paragraph 1 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $_____

On and after November 15, 1951, no retailer may offer or sell the article unless it is marked or tagged in the form stated above. Prior to November 15, 1951, unless the article is marked or tagged in this form, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

Upon issuance of any amendment to this special order which either adds an article to those already listed in the manufacturer's application or changes the retail ceiling price of a listed article, the applicant named in this special order must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in Paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. The manufacturer shall annex to the special order a notice, listing the cost and discount terms to retailers for each article covered by this special order and the corresponding retail ceiling price fixed by this special order for an article of that cost. The notice shall be in substantially the following form:

(Column 1)	(Column 2)
Our price to retailers	Retailer's ceilings for articles of cost listed in column 1
$_____ per_____{unit. dozen. etc.} Terms{net. percent EOM. etc.}	$_____

Within 15 days after the effective date of this special order, two copies of this notice must also be filed by the manufacturer with the Distribution Price Branch, Consumer Soft Goods Division, Office of Price Stabilization, Washington 25, D. C. Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6-month period following the effective date of this special order and within 45 days of the expiration of each successive 6-month period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6-month period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the retailer is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

Effective date. This special order shall become effective August 17, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 16, 1951.

[F. R. Doc. 51-9956; Filed, Aug. 16, 1951; 3:22 p. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

DIRECTOR, POULTRY BRANCH

DELEGATION OF AUTHORITY TO EXERCISE CERTAIN POWERS AND FUNCTIONS

Pursuant to the authority vested in me under § 70.1 of the regulations of the Secretary of Agriculture, appearing in Title 7, Chapter I, Part 70, Code of Federal Regulations, as printed in the FEDERAL REGISTER June 5, 1951 (16 F. R. 5210; 16 F. R. 5423) authority is hereby delegated to the Director, Poultry Branch, Production and Marketing Administration, to exercise the powers and functions vested in me pursuant to §§ 70.1 to 70.40, 70.101 to 70.105, and 70.201, inclusive, of said regulations, and to redelegate the authority granted herein to any officer or employee of the Production and Marketing Administration under his supervision.

Any action heretofore taken by the Director, Poultry Branch, with respect to the foregoing matters is hereby ratified and confirmed, and shall remain in full force and effect unless and until expressly modified, amended, suspended, revoked, or terminated; and the delegation of authority to the Chief, Dairy and Poultry Inspection and Grading Division, Dairy Branch, Production and Marketing Administration of January 16, 1950 (15 F. R. 332) is hereby revoked.

Done at Washington, D. C., this 17th day of August 1951.

[SEAL] HAROLD K. HILL,
Acting Administrator, Production and Marketing Administration.

[F. R. Doc. 51-10059; Filed, Aug. 22, 1951; 8:47 a. m.]

DIRECTOR, POULTRY BRANCH

DELEGATION OF AUTHORITY TO EXERCISE CERTAIN POWERS AND FUNCTIONS

Pursuant to the authority vested in me under § 54.1 of the Regulations of the

Secretary of Agriculture, appearing in Title 7, Chapter I, Part 54, Code of Federal Regulations, as printed in the FEDERAL REGISTER June 5, 1951 (16 F. R. 5200) authority is hereby delegated to the Director, Poultry Branch, Production and Marketing Administration, to exercise the powers and functions vested in me pursuant to §§ 54.1 to 54.37, 54.101 to 54.102, inclusive, of said regulations, and to redelegate the authority granted herein to any officer or employee of the Production and Marketing Administration under his supervision.

Any action heretofore taken by the Director, Poultry Branch, with respect to the foregoing matters, is hereby ratified and confirmed, and shall remain in full force and effect unless and until expressly modified, amended, suspended, revoked, or terminated.

Done at Washington, D. C., this 17th day of August, 1951.

[SEAL] HAROLD K. HILL,
Acting Administrator, Production and Marketing Administration.

[F. R. Doc. 51-10060; Filed, Aug. 22, 1951; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-238]

ACCIDENT OCCURRING NEAR RICHMOND, VIRGINIA

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry N-119A, which occurred near Richmond, Virginia, on July 19, 1951.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Thursday, August 23, 1951, at 9:00 a. m., e. d. t., in the Lexington Hotel, Forty-eighth Street and Lexington Avenue, New York, New York.

Dated at Washington, D. C., August 15, 1951.

[SEAL] ROBERT W. CHRISP,
Presiding Officer.

[F. R. Doc. 51-10100; Filed, Aug. 22, 1951; 8:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10008]

BARTELL BROADCASTERS, INC. (WOKY)

ORDER CONTINUING HEARING

In re application of Bartell Broadcasters, Inc. (WOKY), Greenfield, Wisconsin, for construction permit; Docket No. 10008, File No. BP-7959.

The Commission having under consideration a petition filed on August 9, 1951, by Bartell Broadcasters, Inc. (WOKY), Milwaukee, Wisconsin, requesting that the hearing now scheduled to be held on the above-entitled application, in Washington, D. C., on August 20, 1951, be continued for a period of not more than sixty days; and

It appearing, that no opposition has been filed to the above petition by any of the parties to the instant proceeding:

It is ordered, This 16th day of August, 1951, that the above petition be, and it is hereby, granted; and that the hearing on the above-entitled application be, and it is hereby, continued until 10:00 a. m., Monday, October 15, 1951, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 51-10101; Filed, Aug. 22, 1951; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1700]

HOPE NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER

AUGUST 17, 1951.

Notice is hereby given that, on August 14, 1951, the Federal Power Commission issued its findings and order entered August 14, 1951, issuing certificate of public convenience and necessity authorizing relocation of natural gas facilities, and permitting and approving abandonment of natural gas facilities in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 51-10074; Filed, Aug. 22, 1951; 8:49 a. m.]

[Docket No. E-6346]

CONNECTICUT RIVER POWER CO.

NOTICE OF FINDINGS AND ORDER

AUGUST 17, 1951.

Notice is hereby given that, on August 15, 1951, the Federal Power Commission issued its findings and order entered on August 14, 1951, in the above-entitled matter, that the interests of interstate or foreign commerce would be affected by the construction and operation of the Littleton development and ordering that the declarant, before commencing construction of the proposed Littleton development, shall have received a license therefor under the provisions of the Federal Power Act.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 51-10073; Filed, Aug. 22, 1951; 8:49 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

CENTRAL OFFICE

DESCRIPTION OF AGENCY AND PROGRAM AND FINAL DELEGATION OF AUTHORITY

Section II, Central Office Organization and Final Delegations of Authority to Central Office officials is amended as follows:

Subparagraph (d) is added to paragraph II e 6 as follows:

(d) Effective June 13, 1951, to negotiate purchases for supplies and services up to $500 from administrative funds without advertising for bids.

Date approved: August 13, 1951.

[SEAL] JOHN TAYLOR EGAN,
Commissioner.

[F. R. Doc. 51-10072; Filed, Aug. 22, 1951; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26335]

WALLBOARD FROM RIO GRANDE CROSSINGS TO SOUTHWEST

APPLICATION FOR RELIEF

AUGUST 20, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3843.

Commodities involved: Wallboard, building, wall, or insulating boards, viz: fibreboard or strawboard and wood combined, carloads.

From: Rio Grande crossings (ex Mexico).

To: Points in Kansas, Missouri, and Oklahoma.

Grounds for relief: To apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3843, Supp. No. 16.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-10088; Filed, Aug. 22, 1951; 8:51 a. m.]

[4th Sec. Application 26336]

CLAY FROM KONA, N. C., TO ANDERSON, S. C.

APPLICATION FOR RELIEF

AUGUST 20, 1951.

The Commission is in receipt of the above-entitled and numbered applica-

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Carolina and Northwestern Railway Company and other carriers.

Commodities involved: Clay, kaolin or pyrophyllite, carloads.

From: Kona, N. C.

To: Anderson, S. C.

Grounds for relief: Competition with rail carriers, market competition, and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 809, Supp. 173.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10089; Filed, Aug. 22, 1951; 8:52 a. m.]

[4th Sec. Application 26337]

COKE BREEZE FROM ALABAMA CITY, ALA., TO FORT SMITH, ARK.

APPLICATION FOR RELIEF

AUGUST 20, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Chicago, Rock Island and Pacific Railroad Company and other carriers.

Commodities involved: Coke breeze (the direct product of coal), carloads.

From: Alabama City, Ala.

To: Fort Smith, Ark.

Grounds for relief: Circuitous routes and competition with rail carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-10090; Filed, Aug. 22, 1951; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-66, 59-61, 59-35]

FEDERAL WATER AND GAS CORP. ET AL.

NOTICE OF FILING OF LIQUIDATION PLAN AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of August A. D. 1951.

Notice is hereby given that Federal Water and Gas Corporation ("Federal"), a registered holding company, has filed a plan for the completion of its liquidation pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("act") and to effectuate compliance with section 11 (b) of the act and orders of the Commission dated February 10, 1943, July 2, 1948, and July 27, 1948, issued thereunder. All interested persons are referred to said plan, which is on file in the office of the Commission, for a full statement of the transactions therein proposed, which may be summarized as follows:

Federal proposes to distribute to its stockholders common stock of Scranton-Spring Brook Water Service Company ("Scranton") on the basis of 0.3 of a share of Scranton for each share of Federal.

Unless otherwise provided by order of this Commission or by the United States District Court for the District of Delaware, the stock transfer books of Federal will be permanently closed at 3:00 p. m., e. d. s. t., September 18, 1951, such date and hour being hereinafter referred to as the "record date", and thereafter no stock transfers will be made on the books of Federal.

Upon approval of the plan by this Commission and by the United States District Court for the District of Delaware without objection or, if objection is raised, after the objection is finally disposed of, Federal will deliver to The New York Trust Company, as distributing agent, a certificate for 292,955 shares of common stock of Scranton to be registered in the name of the distributing agent or its nominee, for distribution to the stockholders of Federal. Since the distribution of 0.3 of a share of common stock of Scranton will be the last substantial distribution of assets to Federal stockholders (the distribution of cash and common stock of Southern Natural Gas Company, Southern Production Company, Inc. and certain shares of Scranton, having previously been made pursuant to authorization of the Commission), the right of stockholders to receive the distribution and any further distribution is conditioned upon the surrender by the stockholders of their certificates of stock.

Federal, at the same time, will mail to its stockholders of record on the record date letters requesting them to surrender their certificates of stock in order that they might receive the distributions provided for by this plan. An appropriate letter of transmittal will be enclosed. Thereafter, each holder of stock of Federal will be entitled, upon surrender of the certificate or certificates accompanied by a properly executed letter of transmittal, to receive full shares of stock of Scranton, and a cash adjustment in lieu of fractional shares, in the ratio of 0.3 of a share of stock of Scranton for each share of Federal represented by the certificate or certificates surrendered. The New York Trust Company will from time to time as necessary to meet the requirements of those entitled to fractional shares sell full shares and divide the net proceeds of sale thereof among those entitled to fractional shares.

If the certificate surrendered is one which has not received all of the prior distributions to which it was entitled, the holder thereof, if entitled to any prior distribution, will receive the same at the time of surrender. Delivery of the stock and/or cash will be made by The New York Trust Company either personally or by registered mail.

At the same time that Federal mails to its stockholders of record on the record date letters requesting such stockholders to surrender their certificates and receive the distribution to which they are entitled under this plan, Federal will also mail letters to the stockholders of record on the record date of Federal Water Service Corporation ("Water Service") and Utility Operators Company ("Utility Operators") who were entitled under the merger agreement, effective October 31, 1941, to surrender their certificates of stock in exchange for certificates of stock of Federal. Upon surrender of the certificates of stock of Water Service and Utility Operators by the holders thereof, accompanied by letters of transmittal properly executed, The New York Trust Company, as distributing agent, will deliver or send by registered mail the certificates of stock of Scranton and/or cash to which the holder of the certificate is entitled. In determining the amount of cash to which the holders of outstanding certificates of stock of Water Service and Utility Operators are entitled, The New York Trust Company, as Distributing Agent, will include the proportionate part of the sum of $3,118.91 held by The New York Trust Company as a result of the failure of scrip holders to receive scrip and thereafter surrender the scrip for fractional shares of Federal pursuant to the merger agreement.

The New York Trust Company will keep a record of the names of the holders of the surrendered certificates of Federal, Water Service and Utility Operators and the number of shares of Federal represented thereby, together with the addresses to which any future distributions should be sent. Thereafter any future distributions will be made by

The New York Trust Company by mailing checks to the persons whose names are shown by the records at the addresses so given, or as they may be changed by written notice to The New York Trust Company.

Notwithstanding the closing of the transfer books on September 18, 1951, assignments of the right of the holder of a certificate of stock of Federal, or of Water Service, or of Utility Operators, whether executed before or after September 18, 1951, to receive the distributions to which such certificate is entitled will be recognized, where such assignment is evidenced by the transfer of the certificate endorsed in blank or to the order of the persons surrendering them. Endorsements must be guaranteed by a commercial bank or trust company having a New York correspondent or by a member firm of the New York Stock Exchange, and endorsed certificates must have affixed thereto stock transfer stamps in the proper amount. Certificates surrendered by the record owner need not be endorsed.

The right to receive Scranton stock upon surrender of certificates of stock of Federal, Water Service and Utility Operators shall cease and terminate at the close of business on December 31, 1952. As soon as practicable after that date, the distributing agent will sell at public or private sale any Scranton stock which shall not then have been distributed and thereafter will hold the net proceeds of sale, together with any dividends which had been received by the distributing agent on such undistributed stock, for the benefit of the persons entitled thereto.

Within such reasonable time as is appropriate following the approval of this plan, Federal will sell at public or private sale on such terms and conditions as are deemed by its officers to be appropriate the remaining shares of Scranton stock held by Federal and add the proceeds of sale to its cash on hand.

Federal will pay all fees and expenses incurred in connection with its plan of liquidation to the extent approved by the Commission. Upon determination of the maximum claims against it, including fees and expenses of the plan, and after provision has been made for payment thereof, Federal will pay its remaining cash balance to The New York Trust Company for further distribution. Upon receipt of such remaining cash balance The New York Trust Company will determine the amount of such balance to which each share of Federal is entitled and will mail checks for the amounts to which stockholders who have surrendered their certificates are entitled to them at their addresses as given on the books of The New York Trust Company and will retain the remainder for the other stockholders who have not surrendered their certificates.

Federal will maintain its office until December 31, 1951, after which date no further notices will be sent by Federal to stockholders of record urging the surrender of their certificates to obtain the distributions to which such stockholders are entitled. During the month of December, 1952, The New York Trust Company, as Distributing Agent, will send notice to the stockholders of record who have not surrendered their certificates advising them of their rights. Similar notices will be sent out in December, 1953, 1954, 1955, and 1956. Thereafter any money on hand will be treated by The New York Trust Company in accordance with the Abandoned Property Law of the State of New York.

The Commission being required by the provisions of section 11 (e) of the act before approving any plan submitted thereunder to find after notice and opportunity for hearing that the plan, as submitted, or as modified, is necessary to effectuate the provisions of subsection (b) of section 11 of the act and is fair and equitable to the persons affected thereby; and it appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that notice be given and a hearing be held with respect to said plan to afford all interested persons an opportunity to be heard with respect thereto, and that said plan shall not become effective except pursuant to further order of the Commission:

It is ordered, That a hearing on said plan, pursuant to the applicable provisions of the act and rules thereunder, be held on September 14, 1951, at 11 a. m., e. d. s. t., at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., in such room as may be designated on that day by the hearing room clerk in Room 193. In the event amendments are filed to said plan during the course of said proceeding, no notice of such amendments will be given unless specifically ordered by the Commission.

It is further ordered, That any person, other than those persons who previously have been granted participation in this proceeding, desiring to be heard in connection with this proceedng, or otherwise participate herein, shall file with the Secretary of the Commission on or before September 7, 1951, his request or application therefor as provided in Rule XVII of the rules of practice of the Commission.

It is further ordered, That Edward C. Johnson, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing in the proceeding. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the plan and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the plan as submitted, or as it may hereafter be modified, is necessary to effectuate the provisions of section 11 (b) of the act and is in conformity with the requirements of the Commission's orders of February 10, 1943, and July 2 and 27, 1948, and is fair and equitable to the persons affected thereby;

2. Whether the fees and expenses and other remuneration which may be claimed in connection with this plan and prior plans, and transactions incident thereto, are for necessary services and are reasonable in amount;

3. Generally, whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and rules thereunder, and whether any modifications should be required to be made therein, and whether any terms and conditions should be imposed to satisfy the applicable statutory standards;

It is further ordered, That attention shall be directed at said hearing to the foregoing issues and such other matters and questions as may be presented by this plan.

It is further ordered, That all persons proposing to request an allowance for services or expenses shall file herein an application therefor on or before the 7th day of September 1951.

It is further ordered, That the Secretary of the Commission cause a copy of this notice to be mailed to Federal by registered mail, and that Federal cause copies thereof to be mailed to its stockholders of record, such mailing to be made as of a date not later than August 24, 1951.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-10076; Filed, Aug. 22, 1951; 8:50 a. m.]

[File No. 70-2680]

AMERICAN GAS AND ELECTRIC CO.

ORDER AUTHORIZING ISSUANCE OF SHARES OF COMMON STOCK IN PAYMENT OF STOCK DIVIDEND

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of August A. D. 1951.

American Gas and Electric Company ("American"), a registered holding company, having filed a declaration pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("act") regarding the following transactions:

American Gas proposes to issue not in excess of 271,739 shares of its Common Stock ($10 par value), to be paid as a stock dividend to its stockholders of record on August 10, 1951, at the rate of one share for each twenty shares of its outstanding common stock. To reflect the proposed stock dividend, American Gas proposes to charge earned surplus in the amount of $13,586,950, to credit its Common Stock account in the amount of $2,717,390, and to credit premium on Commons Stock (Capital Surplus) in the amount of $10,869,560. As of June 30, 1951, the earned surplus of American Gas was $80,379,833.68.

American Gas proposes that no fractional shares of stock will be issued, but

in lieu thereof scrip certificates will be delivered representing fractional interest. Such scrip certificates will be exchanged, when combined with other scrip certificates, for shares of American Gas Common Stock, if presented on or before December 31, 1953. Thereafter any common stock applicable to outstanding scrip certificates will be sold, and the proceeds remitted to holders of the outstanding scrip certificates. The declarant states that holders of scrip certificates who do not surrender them on or before December 31, 1957, will be presumed to have abandoned all claims thereunder and that all cash allocable thereto will be paid to and become the property of American Gas.

American Gas has made arrangements with Guaranty Trust Company of New York, as depositary, pursuant to which the depositary will act as the agent for holders of scrip certificates who may desire (1) to purchase additional scrip certificates, so that their holdings will aggregate one full share of Common Stock of American Gas; and (2) to sell their scrip certificates. Such services will be furnished without charge to the holders of scrip certificates.

Said declaration having been filed on August 1, 1951, and notice of such filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that said declaration satisfies the requirements of the applicable provisions of the act and the rules and regulations promulgated thereunder, and deeming it appropriate in the public interest and in the interest of investors and consumers that the declaration be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the Public Utility Holding Company Act of 1935, that said declaration be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

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

[F. R. Doc. 51-10075; Filed, Aug. 22, 1951; 8:49 a. m.]

[File Nos. 59-11, 59-17, 54-25]

UNITED LIGHT RAILWAYS CO. ET AL.

ORDER ALLOWING REIMBURSEMENT FOR FEES ANE EXPENSES

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of August A. D. 1951.

In the matter of The United Light and Railway Company, American Light Traction Company, et al.; File Nos. 59-11, 59-17, 54-25.

The Commission, by Order dated December 30, 1947, having approved the amended plan of The United Light and Railways Company ("Railways") and American Natural Gas Company (formerly American Light & Traction Company—"American Natural") filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"), and said order having reserved jurisdiction with respect to the fees and expenses incurred or to be incurred in connection with the plan and its consummation; and

The Commission, by Order dated December 22, 1949, having approved the fees and expenses incurred and to be incurred by Railways, American Natural and certain participants; and

An application having been filed by Allied Chemical & Dye Corporation ("Allied") for reimbursement on account of fees and expenses aggregating $329,329 paid by it in connection with the proceedings with respect to said plan; and

A public hearing having been held after appropriate notice, briefs having been filed and oral argument heard; and

The Commission having considered the record and having this day issued its findings and opinion herein;

It is ordered, That the application of Allied for approval of an allowance for reimbursement on account of fees and expenses paid by it in connection with section 11 (e) plans filed by Railways and American Natural be, and it is hereby approved in the amount of $75,000, and denied in respect to the request in excess of that amount; and that said sum of $75,000 be, and it hereby is, allocated between and shall be paid by Railways and American Natural in equal proportions.

By the Commission.

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

[F. R. Doc. 51-10077; Filed, Aug. 22, 1951; 8:50 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 18284]

HERMANN HOHLBEIN ET AL.

In re: Securities owned by Hermann Hohlbein and others.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the individuals whose names are set forth as owners in Exhibit A, set forth below, and by reference made a part hereof, each of whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the enterprises whose names are set forth as owners in Exhibit A, set forth below, and by reference made a part hereof, are corporations, partnerships, associations, or other business organizations organized under the laws of Germany, and which have or, since the effective date of Executive Order 8389, as amended, have had their principal place of business in Germany and are nationals of a designated enemy country (Germany);

3. That Ferdinand Mantei, whose last known address is Konigslutter, Klosterstr. 7, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

4. That Hulda Ronte, whose last known address is Hagen, Zur Niedenstrasse 6, fur Erbengemienschaft, Hagen, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

5. That Leocardo Schuler, whose last known address is Munster, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

6. That Wilhelm Kremer, whose last known address is Leverkusen-Schlebusch, Kurt Neubauerstrasse 6, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

7. That Walter Wohllebe, whose last known address is Hude, Oldenburg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

8. That Heinrich Rieper, whose last known address is Hohenfelde b/Steinkirchen, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

9. That Vereingte Stahlwerke, the last known address of which is Duesseldorf, Germany is a corporation, partership, association, or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany, and is a national of a designated enemy country (Germany);

10. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, owned by the persons identified therein as owners together with all declared and unpaid dividends thereon,

b. That certain debt or other obligation, matured or unmatured, evidenced by one (1) 4½ Percent First and Ref. Mortgage bond of Columbia Hospital, Milwaukee, Wisconsin, due May 1, 1946, numbered M220 of $1,000 face value owned by Ferdinand Mantei, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same, and any and all rights in and under said bond,

c. All rights and interests in and under one (1) Certificate of Deposit, numbered 174404 for The Athletic Club and Office Building, Kansas City, Missouri 6½ percent First Mortgage bond of $100 face value, said certificate numbered 2438, owned by Hulda Ronte,

d. One (1) Deutscher Verein 4 percent 30 year income debenture bond numbered M109, due April 1, 1955, of $1,000.00 face value owned by Leocardo

Schuler, together with any and all rights in and under said bond,

e. All rights and interests in and under one (1) certificate of Beneficial Interest numbered 481 for 123 units of Beneficial Interest in a trust known as Flamingo Hotel Liquidation Trust, Chicago, Illinois, issued February 4, 1936 by Chicago City Bank and Trust Company as Trustee under its Trust numbered 2150 owned by Wilhelm Kremer,

f. All rights and interests in and under one (1) Certificate of Beneficial Interest numbered 36 for 1 unit of Beneficial Interest in a trust known as Ford Sales and Service Building Liquidation Trust, Chicago, Illinois, issued December 31, 1937 by Chicago City Bank and Trust Company as Trustees under its Trust numbered 2451 owned by Wilhelm Kremer,

g. All rights and interest in and under two (2) Certificates of Beneficial Interest numbered 82 and 84 each for 10 units of Beneficial Interest in a trust known as Glen Eden Hotel Liquidation Trust, Chicago, Illinois issued April 26, 1937 by Chicago City Bank and Trust Company as Trustees under its Trust numbered 2404 owned by Wilhelm Kremer,

h. All rights and interests in and under one (1) Guaranteed First Mortgage Participation Certificate numbered 147, mortgage numbered 241766, issued October 17, 1930, by Lawyers Title and Guaranty Company in the face amount of $5,000.00 owned by Walter Wohllebe,

i. All rights and interests in and under one (1) certificate numbered 2506 having a face value of $100.00 representing a part interest in Mortgage Gold Bonds of Guayaquil and Quito Railway Company, said certificate owned by Heinrich Rieper,

j. All rights and interests in and under one (1) Participation Certificate, numbered 6, Series B, dated February 3, 1915 issued by The Farmers Loan and Trust Company, Trustees under Trust Agreement dated January 15, 1915 between Hermann D. Boker, Hans R. Boker, H. Boker & Co., Inc., Carl F. Boker, Valley Forge Cutlery Co., and Farmers Loan and Trust Company in the face amount of $253.40 owned by Vereinigte Stahlwerke,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

11. That to the extent that the persons referred to in subparagraphs 1 and 2 hereof and the persons named in subparagraphs 3, 4, 5, 6, 7, 8 and 9 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany);

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 6, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Name of issuer	Class of stock	Par value	Certificate Nos.	Number of shares	Owner
Cornplanter Refining Co	Capital	$100.00	634, 711, and 932	13	Hermann Hohlbein.
Do	do	100.00	681, 710 and 871	20	Henrich Bode.
Deep Tunnel Mining Co	do	None	519	25	Waldemar Meng.
The Doyle Consolidated Mines Corp.	do	$1.00	505	25	Hermann Meuer.
Furance Creek Copper Co	do	1.00	11926 and 12053	200	Kreissparkasse.
Geller, War & Hasner Hardware Co.	Common	None	187	12	Friedrich Geller.
General Electric Co	do	None	NYD252269	25	Friedrich Schmidt.
German American Lumber Co	Preferred	$100.00	1/5	5,000	Prinz Wolrad zu Schaumburg-Lippe.
Glengarry Mining Co	Capital	1.00	534B and 536B	700	Marlis Kaulen.
Do	do	1.00	320B	250	Wwe. Hugo Pahl.
Do	do	1.00	594B	200	Dorothea Borger-Landwehrmann.
Do	do	1.00	1254B	100	Fritz Suthaus.
Do	do	1.00	1256B	100	Lina Stuckenbrock.
Do	do	1.00	1705B	50	Lina Suthaus.
Do	do	1.00	1008B	100	Arthur von Hurter.
Do	do	1.00	360B	25	Dr. Erhard Hedwig.
The Gold Divide Mining, Milling & Tunnel Co.	do	1.00	271, 296/7, 348, 368, 457, 508, 516, 576, and 590.	2,075	Marianne Hebert.
The Good Hope Gold Mining Co	do	1.00	256/260	5,000	Erben Marie Goldschmidt.
The Gorham State Bank	do	100.00	82	2	Johann Brombach.

[F. R. Doc. 51-10102; Filed, Aug. 22, 1951; 8:53 a. m.]

[Vesting Order 18285]

ELSIE KAHLE ET AL.

In re: Securities owned by Elsie Kahle and others. F-28-31614.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elsie Kahle, whose last known address is Lüneburg, Lünerdamm 21, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That Allianz Lebensversicherung A. G. the last known address of which is Berlin, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Berlin, Germany, and is a national of a designated enemy country (Germany);

3. That Braunschweigische Lebensversicherung A. G., the last known address of which is Braunschweig, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Braunschweig, Germany, and is a national of a designated enemy country (Germany);

4. That Wilhelm Kremer, whose last known address is Leverkusen-Schlebusch, Franz Schubertstr. 6, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

5. That the property described as follows:

a. Those certain debts or other obligations, matured or unmatured, evidenced by six (6) New York Majestic Corporation 4 percent non-cumulative income bonds, due June 1, 1956, numbered M8408 to M8413 inclusive, each of $1,000 face value, owned by Elsie Kahle, together with any and all accruals to the aforesaid debts or other obligations and any and all rights to demand, enforce and collect the same, and any and all rights in and under said bonds,

b. All rights and interest in and under fifty (50) certificates for corporate stock of The City of New York, for the construction of rapid transit railroads, numbered 1751 R14 through 1800 R14, inclusive, each of $1,000 face value, owned by Allianz Lebensversicherung A. G.,

c. Those certain debts or other obligations, matured or unmatured evidenced by two (2) Norfolk and Western Railway Company first consolidated 4 percent gold bonds, due 1996, numbered D7162 of $500 face value and C5445 of $100 face value, owned by Braunschweigische Lebensversicherung A. G., together with any and all accruals to the aforesaid debts or other obligations and any and all rights to demand, enforce and collect the same, and any and all rights in and under said bonds, and

d. Fifteen (15) shares of $9.00 par value capital stock of Normandy Park Company, a corporation organized under

the laws of the State of Washington, evidenced by two certificates numbered 318 for five (5) shares and 319 for ten (10) shares, owned by Wilhelm Kremer, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

6. That to the extent that the persons named in subparagraph 1, 2, 3 and 4 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 6, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 51-10103; Filed, Aug. 22, 1951; 8:53 a. m.]

[Vesting Order 18286]

FRIEDA KLEINE ET AL.

In re: Securities owned by Frieda Kleine and others. F-28-31611.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the individuals whose names are set forth as owners in Exhibit A, set forth below, and by reference made a part hereof, each of whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That Landesgenossenschaft Stade, the last known address of which is Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, which has or since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany);

3. That Theodor von Gorrissen, whose last known address is Hamburg v. d. Hohe Weinbergweg 15, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

4. That Elbert Gorrissen, also known as Elbert von Gorrissen, whose last known address is Gottingen Herzbergerlandstrasse 49, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

5. That Wilhelm Kremer, whose last known address is Leverkusen-Schlebusch Kurt Neubauerstrasse 6, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

6. That the property described as follows:

a. That certain debt or other obligation, matured or unmatured, evidenced by one (1) Baltimore & Ohio Railroad Company 5 percent Ref. & Gen. Mortgage Series F bond, numbered D388 of $500 face value, owned by Landesgenossenschaft Stade, together with any and all accruals to the aforesaid debt or other obligation, and any and all rights to demand, enforce and collect the same, and any and all rights in and under said bond,

b. All rights and interests in and under eight (8) Interest Bearing and Non-Interest Bearing Scrip Certificates of Associated Gas & Electric Company for interest on convertible obligations and owned by Theodor von Gorrissen, numbered and of face value as set forth below:

Certificate Nos.	Face value	Type
3DS7445	$200.00	Interest bearing.
3NS38207	10.60	Noninterest bearing.
2DS7269	200.00	Interest bearing.
2NS38495	10.60	Noninterest bearing.
NS38601	70.20	Do.
7NS23518	35.10	Do.
9NS23401	35.10	Do.
5NS23855	35.10	Do.

c. All rights and interests in and under one (1) Certificate, numbered BX3943 of the Associated Electric Gas & Electric Company for 6 percent Series A convertible obligation in the sum of $2,600.00 owned by Theodor von Gorrissen,

d. All rights and interests in and under two (2) Scrip Certificates, numbered TCOS 941 and TCOS 942, of Associated Gas & Electric Company for interest on convertible obligations owned by Elbert Gorrissen, also known as Elbert von Gorrissen,

e. All rights and interests in and under one (1) Certificate of Beneficial Interest, numbered 31, for 5 units of beneficial interest in the trust known as the Bennett Court Apartments Liquidation Trust, issued by Chicago City Bank and Trust Company as Trustee under Trust numbered 2364, owned by Wilhelm Kremer and

f. Those certain shares of stock described in Exhibit A, owned by the persons identified therein as owners, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

7. That to the extent that the persons referred to in subparagraph 1 and the persons named in subparagraphs 2, 3, 4, and 5 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany);

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 6, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Name of issuers	Class of stock	Par value	Certificate Nos.	Number of shares	Owner
American Central Railways Co.	Common capital	$5.00	26/9 and 48	10,000	Frieda Kleine.
Anderson Hotel Co.	Common	None	349	1	Wilhelm Kremer.
Associated Gas & Electric Co.	A	None	H096827	1	Locarde Schuler.
The Bank of United States	Capital	25.00	070707	40	Do.
Bankus Corp.	do	5.00	070707	40	Do.
The Augusta Metal Mining Co.	do	1.00	580	1,000	San. Rat. Dr. Adam.
Baldwin State Bank	do	100.00	155	5	Emil Harf.
The Baltimore & Ohio R. R. Co.	Common capital	100.00	D102102	10	Geheimrat Dr. Hans V. Flotow.
Benson Super-Power Corp.	Capital	10.00	C1377	399½	Henirich Thyssen.

[F. R. Doc. 51-10104; Filed, Aug. 22, 1951; 8:54 a. m.]

[Vesting Order 18289]

PAUL MUNDRY ET AL.

In re: Securities owned by Paul Mundry and others. F-28-31612.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the individuals whose names are set forth as owners in Exhibit A, set forth below, and by reference made a part hereof, each of whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the enterprise whose name is set forth as owner in Exhibit A, set forth below, and by reference made a part hereof is a corporation, partnership, association, or other business organization organized under the laws of Germany, and which has on or since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany);

3. That Frida Puvogel, whose last known address is Crindau ü/Schwarmstedt, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

4. Paul Klose, whose last known address is Lindenstrasse 57, Hilden, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

5. That Heinrich Grossehambrucker, whose last known address is Friedrichstrasse 32, Bielefeld, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

6. That William F. Schmidt, whose last known address is Bismarckstrasse 6, Goslar, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

7. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, owned by the persons identified therein as owners, together with all declared and unpaid dividends thereon,

(b) One (1) Brazil Railway Company 4½ percent first mortgage 60-year gold bond, due July 1, 1969, numbered A11190 and of £ 100.00 sterling face value owned by Frida Puvogel, together with any and all rights in and under said bonds,

c. One (1) Brazil Railway Company 5 percent, 50-year gold debenture, due January 1, 1957, numbered A3506 and of $100.00 face value, owned by Paul Klose, together with any and all rights in and under said bonds,

d. Those certain debts or other obligations, matured or unmatured, evidenced by two (2) Central Building Property 6 percent and surplus Participating Bonds, numbered 131 and 466 of $2,000 and $1,000 face value, respectively, owned by Heinrich Grossehambrucker, together with any and all accruals to the aforesaid debts or other obligations, and any and all rights to demand, enforce and collect the same, and any and all rights in and under said bonds, and

e. Any and all rights and interests in and under one (1) Certificate of Deposit, numbered A03195, for 10 shares of Prior Preferred Series A stock of Chicago, Rapid Transit Company, owned by William F. Schmidt,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

8. That to the extent that the persons referred to in subparagraphs 1 and 2 hereof and the persons named in subparagraphs 3, 4, 5, and 6 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 6, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Name of issuer	Class of stock	Par value	Certificate Nos.	Number of shares	Owner
P. Berwin & Co., Inc.	Capital	None	1	100	Nachlass Graf Egon v. Furstenburg-Stammheim.
Budd Wheel Co.	Common	None	NO4257	50	Paul Mundry.
Cachise Mining & Milling Co.	Capital	$100.00	298/301	133	Lilly Gevers.
Central & Northwest Corp.	Preferred	50.00	102	2	Wilhelm Kremer.
Central Commodities Corp., Inc.	Capital	100.00	1/3	3	Klockner & Co.
The Cherokee Oil & Gas Co.	do	100.00	301, 367, 464 and 648	32	Herman Hohlbein.
The Cherokee-Warren Oil & Gas Co.	do	50.00	248	30	Heinrich Bode.
The Cherokee Oil & Gas Co.	do	100.00	267, 368, 468 and 583	30	A. Bode.
The Chicago, Rock Island and Pacific Ry. Co.	6 percent preferred.	100.00	E11215	100	Pauline von Joest.
Cobalt Central Mines Co.	Capital	1.00	A58284	100	Karl Engler.
Do.	do	1.00	A66124/5 and B8946	400	Emma Auguste Zenker.

[F. R. Doc. 51-10105; Filed, Aug. 22, 1951; 8:54 a. m.]