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TITLE 3—THE PRESIDENT

PROCLAMATION 3174

CANCER CONTROL MONTH, 1957

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the human and economic well-being of our people, individually and collectively, is seriously threatened by the ravages of cancer—in terms of loss of lives, protracted suffering, and significant limitation upon the economic productivity of our Nation; and

WHEREAS the medical and biological sciences are accomplishing advances of great import in the struggle against cancer through the efforts of dedicated individuals and agencies engaged in research and related activities; and

WHEREAS better health and higher health standards for our Nation and our citizens demand that the relentless assault on cancer be aided by ever-increasing support of those institutions and groups, public and private, lay and professional, which are seeking the causes and cures for cancer through research and which are involved in activities promoting the application of significant research findings, to the end that cancer may be ultimately conquered; and

WHEREAS the Congress, by a joint resolution approved March 28, 1938 (52 Stat. 148), authorized and requested the President to issue annually a proclamation setting apart the month of April of each year as Cancer Control Month.

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby proclaim the month of April 1957 as Cancer Control Month; and I invite the Governors of the States, Territories, and possessions of the United States to issue similar proclamations. I also urge the medical profession, the press, the radio, television, and motion-picture industries, and all interested agencies and individuals to unite during the appointed month in public support of programs for the control of cancer.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-ninth day of March in the year of our Lord nineteen hundred and fifty seven, and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-2577; Filed, Apr. 1, 1957; 10:17 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

AVERAGE VALUES OF FARMS; CALIFORNIA

On March 21, 1957, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units for the counties identified below were determined to be as herein set forth. The average values heretofore established for said counties, which appear in the tabulations of average values under § 331.17, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values set forth below for said counties.

CALIFORNIA

County	Average value	County	Average value
Alameda	$40,000	Kern	$40,000
Amador	40,000	Kings	40,000
Butte	40,000	Lake	40,000
Calaveras	40,000	Lassen	40,000
Colusa	40,000	Los Angeles	40,000
Contra Costa	40,000	Madera	40,000
Del Norte	40,000	Marin	40,000
El Dorado	40,000	Mariposa	40,000
Fresno	40,000	Mendocino	40,000
Glenn	40,000	Merced	40,000
Humboldt	40,000	Modoc	40,000
Imperial	40,000	Monterey	40,000

(Continued on p. 2145)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

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

CONTENTS—Continued

CALIFORNIA—Continued

County	Average value	County	Average value
Napa	$40,000	Santa Clara	$40,000
Nevada	40,000	Santa Cruz	40,000
Orange	40,000	Shasta	40,000
Placer	40,000	Sierra	40,000
Plumas	40,000	Siskiyou	40,000
Riverside	40,000	Solano	40,000
Sacramento	40,000	Sonoma	40,000
San Benito	40,000	Stanislaus	40,000
San Bernardino	40,000	Sutter	40,000
San Diego	40,000	Tehama	40,000
San Joaquin	40,000	Trinity	40,000
San Luis Obispo	40,000	Tulare	40,000
San Mateo	40,000	Tuolumne	40,000
Santa Barbara	40,000	Ventura	40,000
		Yolo	40,000
		Yuba	40,000

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i))

Dated: March 27, 1957.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F. R. Doc. 57-2500; Filed, Apr. 1, 1957; 8:47 a. m.]

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

AVERAGE VALUES OF FARMS; NEVADA

On March 21, 1957, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units for the counties identified below were determined to be as herein set forth. The average values heretofore established for said counties, which appear in the tabulation of average values under § 331.17, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values set forth below for said counties.

NEVADA

County	Average value	County	Average value
Churchill	$40,000	Lincoln	$40,000
Clark	40,000	Lyon	40,000
Douglas	40,000	Mineral	40,000
Elko	40,000	Nye	40,000
Eureka	40,000	Pershing	40,000
Humboldt	40,000	Washoe	40,000
Lander	40,000	White Pine	40,000

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i))

Dated: March 27, 1957.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F. R. Doc. 57-2499; Filed, Apr. 1, 1957; 8:46 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 4]

PART 722—COTTON

SUBPART—REGULATIONS PERTAINING TO ACREAGE ALLOTMENTS FOR 1957 CROP OF UPLAND COTTON

Basis and purpose. The purposes of this amendment are (1) to provide that for 1957 the limitation of indicated farm acreage allotments to 50 percent of the cropland on the farm as authorized in section 344 (f) (6) of the Agricultural Adjustment Act of 1938, as amended, does not apply in the case of old cotton farms on which the highest acreage planted to cotton in any of the years 1954, 1955, and 1956 was less than 4 acres and (2) in the case of other old cotton farms that in the event the 50 percent cropland limitation on indicated farm acreage allotments as authorized in section 344 (f) (6) of the act would reduce a farm acreage allotment below the allotment determined pursuant to section 344 (f) (1) of the act, the allotment would not be reduced below that provided by section 344 (f) (1) of the act. Notice of proposed formulation of acreage allotment regulations for the 1957 crop of upland cotton was published in the FEDERAL REGISTER on July 7, 1956 (21 F. R. 5063) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and the data, views and recommendations which were submitted in response to such notice have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended. Because the planting of cotton is under way in the southern part of the Cotton Belt, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that further compliance with the notice and public procedure requirements and compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and the amendment set forth herein shall be

effective upon filing of this document with the Director, Division of the Federal Register.

Section 722.817 (d) (1) (iv) of the Regulations Pertaining to Acreage Allotments for the 1957 Crop of Upland Cotton (21 F. R. 7817, 8077, 9630, 22 F. R. 533) is amended to read as follows:

(iv) *Limitation of farm acreage allotments to 50 percent of cropland.* If the county committee so elects, the indicated farm acreage allotment determined for each farm in accordance with subdivision (iii) of this subparagraph shall not exceed an acreage equal to 50 percent of the cropland on the farm, but in no event shall such reduced indicated farm acreage allotment be less than 4 acres except as reduced by any pro rata reduction under subdivision (ii) of this subparagraph, and any part of the county acreage allotment not apportioned by reason of the application of such 50 percent limitation shall be added to the county acreage reserve established under paragraph (b) of this section and shall be available for the purposes specified in paragraph (e) of this section.

(Sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interprets or applies sec. 344, 70 Stat. 204, 7 U. S. C. 1344)

Done at Washington, D. C., this 29th day of March 1957. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-2563; Filed, Mar. 29, 1957; 3:30 p. m.]

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

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

INCREASED EXPENSES FOR 1956–57 FISCAL YEAR

On March 16, 1957, notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 1727), that consideration was being given to a proposal regarding an increase in expenses for the 1956–57 fiscal year under the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in South Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

a. After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice which was submitted by the Avocado Administrative Committee (established pursuant to said amended marketing agreement and order), *It is hereby ordered,* That the provisions in paragraph (a) of § 969.203 *Expenses and rate of assessment for the 1956–57 fiscal year* (22 F. R. 211) be, and hereby are, amended to read as follows:

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Avocado Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning of such committee, in accordance with the provisions thereof, during the fiscal year beginning April 1, 1956, and ending March 31, 1957, will amount to $13,037.00.

b. It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that (1) in order for the committee to continue to carry out its duties and functions for the remainder of the current fiscal year, in accordance with the provisions of the aforesaid amended marketing agreement and order, an immediate increase in the previously approved expenses is necessary; (2) the current fiscal year ends on March 31, 1957; and (3) no increase in the current rate of assessment is necessary, since assessment income already available to the committee is sufficient to cover the increase in expenses.

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

Done at Washington, D. C., this 28th day of March, 1957, to become effective upon publication in the FEDERAL REGISTER.

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

[F. R. Doc. 57-2541; Filed, Apr. 1, 1957; 8:56 a. m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

[ACP-1957-P. R., Supp. 1]

PART 1102—AGRICULTURAL CONSERVATION; PUERTO RICO

SUBPART—1957

ALLOCATION OF FUNDS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, the 1957 Agricultural Conservation Program for Puerto Rico, approved November 6, 1956 (21 F. R. 8755), is amended as follows:

Section 1102.702 is amended by deleting "$830,000" in the first sentence and substituting therefor "$862,000."

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interprets or applies secs. 7–17, 49 Stat. 1148, as amended, 70 Stat. 233; 16 U. S. C. 590g–590q)

Done at Washington, D. C., this 28th day of March 1957.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F. R. Doc. 57-2548; Filed, Apr. 1, 1957; 8:57 a. m.]

[ACP-1957-Alaska, Supp. 1]

PART 1104—AGRICULTURAL CONSERVATION; ALASKA

SUBPART—1957

INTRODUCTION; ALLOCATION OF FUNDS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, the 1957 Agricultural Conservation Program for Alaska, approved July 31, 1956 (21 F. R. 5789), is amended as follows:

Section 1104.600 (d) is amended by deleting "$42,000" in the second sentence and substituting therefor "$44,000."

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interprets or applies secs. 7–17, 49 Stat. 1148, as amended, 70 Stat. 233; 16 U. S. C. 590g–590q)

Done at Washington, D. C., this 28th day of March 1957.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F. R. Doc. 57-2546; Filed, Apr. 1, 1957; 8:57 a. m.]

[ACP-1957-Hawaii, Supp. 1]

PART 1105—AGRICULTURAL CONSERVATION; HAWAII

SUBPART—1957

ALLOCATION OF FUNDS; PROGRAM YEAR AND TECHNICAL AID; LEVELING OR GRADING LAND FOR MORE EFFICIENT USE OF IRRIGATION WATER AND TO PREVENT EROSION

Pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, the 1957 Agricultural Conservation Program for Hawaii, approved September 4, 1956 (21 F. R. 6814), is amended as follows:

1. Section 1105.603 is amended by deleting "$182,000" in the first sentence and substituting therefor "$188,000."

2. Section 1105.609 (b) is amended by revising the fourth sentence to read as follows: "For the practices contained in §§ 1105.646 and 1105.653 (practices 6 and 13), the Soil Conservation Service is responsible for determining that the practice is needed and practicable on the farm."

3. Section 1105.668 is amended by revising the "Maximum Federal cost-share" paragraph to read as follows: "50 percent of the cost of earth moving."

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interpret or apply secs. 7–17, 49 Stat. 1148, as amended, 70 Stat. 233; 16 U. S. C. 590g–590q)

Done at Washington, D. C., this 28th day of March 1957.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F. R. Doc. 57-2547; Filed, Apr. 1, 1957; 8:57 a. m.]

TITLE 21—FOOD AND DRUGS

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

Subchapter B—Food and Food Products

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

TOLERANCES FOR RESIDUES OF ZINEB

A petition was filed with the Food and Drug Administration requesting the establishment of tolerances for residues of zineb in or on beet tops, Chinese cabbage, collards, endive, kale, lettuce, mustard greens, romaine, spinach, and Swiss chard.

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

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512; 21 U. S. C. 346a (d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7 (g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR Part 120 1956 Supp. 120.115) are amended by changing § 120.115 to read as follows:

§ 120.115 *Tolerances for residues of zineb.* Tolerances for residues of zineb (zinc ethylenebisdithiocarbamate) are established as follows:

(a) 60 parts per million in or on hops.

(b) 25 parts per million in or on beet tops, Chinese cabbage, collards, endive, kale, lettuce, mustard greens, romaine, spinach, Swiss chard.

(c) 7 parts per million in or on mushrooms.

(d) 1 part per million in or on wheat.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 408, 68 Stat. 511; 21 U. S. C. 346a)

Dated: March 27, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-2487; Filed, Apr. 1, 1957; 8:45 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

Subchapter C—Mutual Mortgage Insurance and Servicemen's Mortgage Insurance

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

MAXIMUM AMOUNT OF MORTGAGE AND MORTGAGOR'S MINIMUM INVESTMENT

Section 221.17 (a) (6) is revoked as follows:

§ 221.17 *Maximum amount of mortgage and mortgagor's minimum investment.* (a) * * *

(6) [Revoked].

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b)

Issued at Washington, D. C., March 29, 1957.

NORMAN P. MASON,
Federal Housing Commissioner.

[F. R. Doc. 57-2604; Filed, Apr. 1, 1957; 12:01 p. m.]

Subchapter F—Rehabilitation and Neighborhood Conservation Housing Insurance

PART 263—MULTIFAMILY REHABILITATION INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE

MAXIMUM MORTGAGE AMOUNTS

In § 263.6 (c) the first sentence is amended to read as follows:

§ 263.6 *Maximum mortgage amounts.* * * *

(c) *Increased mortgage amount—high cost areas.* The Commissioner may, in any geographical area where he finds cost levels so require, increase the maximum dollar amount limitations set out in this section by not to exceed $1,000 per room without regard to the number of rooms being less than four, or four or more. * * *

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

Issued at Washington, D. C., March 29, 1957.

NORMAN P. MASON,
Federal Housing Commissoner.

[F. R. Doc. 57-2605; Filed, Apr. 1, 1957; 12:01 p. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

PART 130—OPERATION AND MAINTENANCE CHARGES

FORT BELKNAP INDIAN IRRIGATION PROJECT, MONTANA

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Public Law 404-79th Congress, 60 Stat. 238) and authority contained in the acts of Congress approved August 1, 1914; May 18, 1916; and March 7, 1928, (38 Stat. 583; 25 U. S. C. 383; 39 Stat. 142; and 45 Stat. 210; 25 U. S. C. 387) and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 351, amendment No. 1; 16 F. R. 5454-7), notice was given of intention to modify § 130.30 of Title 25, Code of Federal Regulations, dealing with irrigable lands of the Fort Belknap Indian Irrigation Project to read as follows:

Interested persons were thereby given opportunity to participate in the preparation of this modification by submitting their views or arguments, in writing, to the Area Director within 30 days from the date of publication of said notice. A number of objections having been received and after full consideration on the merits having been overruled, the said section is hereby amended and the rate fixed, for the season of 1957 and thereafter until further notice, as stated above.

§ 130.30 *Charges.* Pursuant to the provisions of the acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387) the basic annual charges for operation and maintenance against the irrigable lands to which water can be delivered under the constructed works of the Fort Belknap Irrigation Project in Montana are (a) for the Milk River and White Bear Units, including the lands operated as a tribal farming and livestock enterprise, is hereby fixed at $2.65 per acre for the year 1957 and thereafter until further notice, (b) for the Peoples Creek (Hays), Brown, Ereaux and Three-Mile Units hereby fixed at $2.00 per acre for the year 1957 and thereafter until further notice.

M. A. JOHNSON,
Acting Area Director.

[F. R. Doc. 57-2488; Filed, Apr. 1, 1957; 8:45 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

DALLES DAM NAVIGATION LOCK AND APPROACH CHANNELS, COLUMBIA RIVER, WASHINGTON

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1),

§ 207.705 is hereby prescribed governing the use, administration and navigation of the Dalles Dam navigation lock and approach channels, Columbia River, Washington, as follows:

§ 207.705 *Dalles Dam navigation lock and approach channels, Columbia River, Wash.; use, administration and navigation*—(a) *General.* The lock and its approach channels, and all its appurtenances, shall be in charge of the District Engineer, Corps of Engineers, United States Army, in charge of the locality. His representatives at the Dalles Dam shall be the Project Engineer who shall customarily give orders and instructions to the lock master and assistant lock masters in charge of the lock. Hereinafter, the term "lock master" shall be used to designate the lock official in immediate charge of the lock at any given time. In case of emergency and on all routine work in connection with the operation of the lock, the lock master shall have authority to take such steps as may be immediately necessary without waiting for instructions from the Project Engineer.

(b) *Immediate control.* The lock master shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He shall see that all laws, rules and regulations for the use of the lock and lock area are duly complied with, to which end he is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock or lock area, whether navigating the lock or not. It shall be the duty of the Project Engineer to establish lines of succession for the men operating the lock on all shifts in order that in case of absence or accident to the designated lock master, one of his assistants will immediately assume the position of lock master.

(c) *Authority of lock master.* No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lock master or his assistants.

(d) *Signals*—(1) *Sound.* All craft desiring lockage shall signal by two long and two short blasts of the whistle, delivered at a distance of one-half mile from the lock. When the lock is ready for entrance, notice will be given by one long blast. Permission to leave the lock will be given by one short blast.

(2) *Visual.* Lights are located outside each lock gate and will be used in conjunction with the sound signals. When a green light is on, the lock is ready for entrance and vessels may enter under full control. When a red light is on, the lock cannot be made ready immediately and the vessel shall stand clear.

(3) *Radio.* The lock is equipped with two-way radio operating on frequencies of 2182 and 2784 kc. These frequencies will be monitored by the lock master. Vessels equipped with two-way radio may communicate with the crew operating the lock, but communications or signals so received will only augment and not replace the sound and visual signals.

(e) *Permissible dimensions of boats.* The lock chamber is 86 feet wide by 675 feet long in the clear. Single tows aggregating 650 feet in length will be permitted to lock through without disassembly. At normal pool elevation of 160 feet above m. s. l., the depth of water over the upstream miter gate sill will be 20 feet. The downstream miter gate sill has an elevation of 54.5 feet above m. s. l. The depth of water over the downstream miter gate sill will depend upon the flow in the river but will usually exceed fifteen feet. Gauges reading in elevation above m. s. l. are located on the north wall of the lock adjacent to each lock gate and at the end of the approach channel immediately downstream of the downstream gate. A boat must not attempt to enter the lock if its beam and length are greater than above indicated, or if its draft exceeds the depth indicated by reference to the gauges, with due allowance for clearance.

(f) *Precedence at lock.* Ordinarily the boat arriving before all others at the lock will be locked through first; however, depending upon whether the lock is full or empty, this precedence may be modified at the discretion of the lock master if boats are approaching from the opposite direction and are within reasonable distance of the lock at the time of the approach by the first boat. When several boats are to pass precedence shall be given as follows:

(1) *First.* Boats and craft owned by the United States and engaged upon river and harbor improvement work.

(2) *Second.* Freight and towboats.

(3) *Third.* Rafts.

(4) *Fourth.* Passenger boats.

(5) *Fifth.* Small vessels and pleasure boats.

(g) *Loss of turn.* Boats that fail to enter the lock with reasonable promptnes, after being authorized to do so, shall lose their turn.

(h) *Multiple lockage.* The lock master shall decide whether one or more vessels may be locked through at the same time.

(i) *Speed.* Vessels shall not be raced or crowded alongside another in the approach channels. When entering the lock, speed shall be reduced to a minimum consistent with safe navigation. As a general rule, when a number of vessels are entering the lock, the following vesness, after being authorized to do so, shall lose their turn.

(j) *Lockage of small boats.* In general the lockage of pleasure boats, skiffs, fishing boats, and other small craft will be coordinated with the lockage of commercial craft other than barges handling petroleum products or highly hazardous materials. If no combined lockage can be scheduled within a reasonable time not to exceed one hour after the arrival of the small craft at the lock, separate lockage will be made for such small craft.

(k) *Mooring in lock.* All boats, rafts and other craft when in the locks shall be moored by head and spring lines and such other lines as may be necessary to the fastening provided for that purpose, and the lines shall not be let go until the signal is given for the vessel to leave the lock.

(l) *Mooring in approaches prohibited.* The mooring or anchoring of boats or other craft in the approaches to the lock where such mooring will interfere with navigation of the lock is prohibited. Rafts to be passed through the lock shall be moored in such a manner as not to interfere with the navigation of the lock or its approaches, and if the raft is to be divided into sections for locking, the sections shall be brought into the lock as directed by the lock master. After passing through the lock, the sections shall be reassembled at such a distance from the entrance as not to obstruct or interfere with navigation of the lock and approaches.

(m) *Waiting for lockage.* Boats and tows waiting downstream of the dam for lockage shall wait in the clear downstream of the navigation lock approach channel, or, contingent upon prior radio clearance of the lock master, may at their own risk lie inside the approach channel alongside the offshore guard wall provided that a 100-foot wide open channel is maintained between the boat or tow and the guide wall on the Washington shore side. Vessels waiting upstream of the dam for lockage may lay to against the offshore guide wall provided they remain not less than 400 feet upstream of the upstream lock gate; or contingent upon prior radio clearance by the lock master they may tie to the upstream guide wall on the Washington shore. In either event, a clear channel not less than 100 feet wide shall be kept open to accommodate passing traffic.

(n) *Delay in lock.* Boats or barges must not obstruct navigation by unnecessary delay in entering or leaving the lock.

(o) *Damage to lock or other structures.* The regulations contained in this section shall not affect the liability of the owners and operators of vessels for any damage by their operations to the lock or other structures. They must use great care not to strike any part of the lock, any gate or appurtenance thereto, or machinery for operating the gates, or the walls protecting the banks of the approach channels. All boats with metal nosing or protecting irons, or rough surfaces that would be liable to damage the gates or lock walls, will not be permitted to enter the lock unless provided with suitable buffers and fenders.

(p) *Tows.* Persons in charge of a vessel towing a second vessel or barge by lines, shall take the second vessel or barge alongside at a distance of at least 500 feet from the lock gate which the vessel is approaching and keep it alongside until at least 500 feet clear of the gate at the end from which it is passing.

(q) *Crew to move craft.* The masters in charge of tows and the persons in charge of rafts and other craft must provide a sufficient number of men to move barges, rafts and other craft into and out of the lock easily and promptly.

(r) *Handling valves, gates, bridges, and machinery.* No person, unless authorized by the lock master shall open or close any bridge, gate, valve, or operate any machinery in connection with the lock, but the lock master may call for assistance from the master of any boat using the lock, should such aid be necessary, and when rendering such assistance the men so employed shall be strictly under the orders of the lock master. Masters of boats refusing to give assistance when it is requested of them may be denied the use of the lock by the lock master.

(s) *Landing of freight.* No one shall land freight or baggage on or over the walls of the lock so as in any way to delay or interfere with navigation or the operations of the lock; and freight and baggage consigned to The Dalles project shall be landed only at such places as are designated by the lock master or his assistants.

(t) *Refuse in lock.* No material of any kind shall be thrown or discharged into the lock, and no material of any kind chall be deposited in the lock area.

(u) *Statistics.* On each passage through the lock, masters or pursers of vessels shall make to the lock master such written statement of passengers, freight, and registered tonnage and other information as are indicated on forms furnished such masters or pursers by the lock master.

(v) *Persistent violation of regulations.* If the owner or master of any boat persistently violates the regulations of this section after due notice of the same, the boat or master may be refused lockage by the lock master at the time of violation or subsequent thereto if deemed necessary in the opinion of the lock master to protect the Government property and works in the vicinity of the lock.

(w) *Restricted areas.* (1) All waters described in subparagraphs (2) and (3) of this paragraph are restricted to all boats except those of the United States Coast Guard and Corps of Engineers.

(2) All downstream waters other than those of the Navigation Lock Downstream Approach Channel which lie between the Wasco County Bridge and the project axis including those waters between the powerhouse and the Oregon shore.

(3) All upstream waters other than those of the Navigation Lock Upstream Approach Channel which lie between the project axis and a line projected from the upstream end of the Navigation Lock Guide Wall to the junction of the concrete structure with the earth fill section of dam near the upstream end of the powerhouse.

[Regs., March 19, 1957, 821.2 (The Dalles Dam)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-2486; Filed, Apr. 1, 1957; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1399]

[Colorado 012205]

COLORADO

RESERVING PUBLIC LANDS FOR USE OF FOREST SERVICE AS ELK RIVER RECREATION AREA

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the Routt National Forest in Colorado 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 use of the Forest Service, Department of Agriculture, as the Elk River Recreation Area:

SIXTH PRINCIPAL MERIDIAN

T. 9 N., R. 84 W.,
Sec. 1, lots 5, 6, 7, 8, and S½N½;
Sec. 2, lot 5, SE¼NE¼, N½SE¼, and N½SW¼;
Sec. 3, SE¼;
Sec. 7, lot 12;
Sec. 8, lots 7, 8, 11, 12, and 13;
Tract 43;
Sec. 9, lots 6, 7, 8, 9, and NE¼SW¼;
Tract 44;
Sec. 10, lots 1, 2, E½NW¼, and NW¼NW¼NE¼;
Sec. 18, lots 17 and 18.

The areas described aggregate 1,465.07 acres.

The withdrawal made by this order shall be subject to Power Site Classification No. 355 of October 31, 1944, so far as it affects any of the lands, and shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

HATFIELD CHILSON,
Acting Secretary of the Interior.

MARCH 27, 1957.

[F. R. Doc. 57-2489; Filed, Apr. 1, 1957; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11830; FCC 57-312]

[Rules Amdt. 3-63]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS (AINSWORTH, NEBR.)

1. The Commission has before it for consideration its notice of proposed rule making issued on September 28, 1956 (FCC 56-921) and published in the FEDERAL REGISTER on October 3, 1956 (21 F. R. 7579) proposing to assign Channel 3 [1] to Ainsworth, Nebraska in response to a petition filed by Bi-States Company.

2. Comments and reply comments were filed by Bi-States Company, May Broadcasting Company, Triple-City Broadcasting Company and Herald Corporation.

3. In its petition for rule making Bi-States Company, permittee of television Station KHOL-TV, Kearney, Nebraska and KHPL-TV, Hayes Center, Nebraska requested the assignment of Channel 3 even to Ainsworth without any other changes in the table of assignments. However, in the engineering statement attached to the petition, petitioner stated that the non-offset assignment appeared to be best but that final discretion was left to the Commission. In support of its request, petitioner urges that Channel 3 may be assigned to Ainsworth in conformity with the Commission's rules and without requiring any other changes in the table of assignments; that the present allocations table does not provide any channels for the Ainsworth area of north central Nebraska, the nearest UHF and VHF allocations being for communities 75 miles and 122 miles away, respectively, and the nearest operating station (KHOL-TV at Kearney, Nebraska) being approximately 140 miles away; that the residents of the Ainsworth area are desirous of obtaining a television service and have requested petitioner to provide them with such service; and that, if the instant proposal is adopted, an application will be filed for a satellite station on this assignment. Bi-States further urges that the assignment of Channel 3 would provide a first television service to a large area presently without any service.

4. On October 11, 1956, May Broadcasting Company, licensee of television Station KMTV operating on Channel 3 even in Omaha, Nebraska filed an opposition to the assignment of either Channel 3 non-offset or Channel 3 minus.[2] May Broadcasting recognizes that the proposal would meet the minimum separation requirements of the Rules, but urges that interference would be caused to the operation of existing stations on Channel 3 in large areas containing substantial numbers of people; that the number of persons losing service due to this interference is much greater than the number of persons who will receive service from a station at Ainsworth; and

[1] The proposal for Channel 3 minus was inadvertent and should have read Channel 3 plus. This would require a change in the offset carrier requirement only of the Channel 3 assignments in Rapid City, South Dakota, from 3+ to 3− and in Miles City, Montana, from 3− to 3 even.

[2] The May Broadcasting Company pleading, though styled "Petition Requesting Issuance of Supplemental Notice of Proposed Rule Making" has been treated as a counterproposal, pursuant to a Commission Memorandum Opinion and Order in the premises, issued on November 6, 1956 (FCC 56-1062) and published in the FEDERAL REGISTER on November 14, 1956. (21 F. R. 8821)

that a large number of people would be deprived of the unique color, educational, and news programs which they presently receive from KMTV.[3] May Broadcasting urges further that either a UHF channel or Channel 7 minus be assigned to Ainsworth. In support of its counterproposal that a UHF channel be assigned to Ainsworth, May Broadcasting submits that the nearest operating station is 140 miles away; that there are almost no VHF receivers in the area; that the terrain is suited for UHF service; that Ainsworth should be allocated a UHF rather than a VHF channel for satellite purposes, in line with policy pronouncements in the Commission's June 26, 1956 Report and Order in the general television allocations proceeding (Docket No. 11532); and that there are at least five UHF channels in the lower portion of the UHF spectrum, including Channel 16, available for assignment to Ainsworth. In support of its proposal that Channel 7 minus be assigned to Ainsworth, May Broadcasting urges that fewer stations would be affected by interference on this channel; that only one station, KETV in Omaha, has been authorized which would receive interference from a Channel 7 operation, and KETV has not yet signed on the air; that due to the propagation characteristics of the high VHF channels, there would be less interference at close spacings; and that the resulting service area of a station at Ainsworth on Channel 7 minus would be greater than on Channel 3.

5. Triple-City Broadcasting Company, permittee of television Station KDLO-TV operating on Channel 3 in Florence, South Dakota, opposes the assignment of Channel 3 to Ainsworth and supports the counterproposal of May Broadcasting for the assignment of Channel 7 minus to this community. Triple-City urges that Channel 7 would cause much less interference than would Channel 3, without requiring any other changes in the table of assignments.

6. In reply to the oppositions and counterproposals, petitioner submits that the assignment of Channel 3 non-offset meets the requirements of the rules and urges that the Commission's Sixth Report and Order rejected the concept of protected contours and based the allocation Table upon a system of minimum station separations and authorized powers and heights, stating that these standards would establish the nature and extent of protection from interference. It argues that a UHF channel would not be practical because of the inferior propagation characteristics and the higher costs involved in obtaining equivalent coverage to that of a VHF channel. It further urges that since there are no UHF stations in the area, this band would have no public acceptance. Finally, it urges that in view of the sparsely populated area involved, it would be necessary to reach a large area in order to justify a station in so small a community as Ainsworth. It objects to the assignment of Channel 7 on the grounds that additional delay would be involved in the adoption of such an alternative proposal. With respect to the engineering showings made by May Broadcasting, petitioner contends that these are not appropriate for the purpose of this proceeding and are meaningless when considering the proposed assignment since the proposal meets the requirements of the rules and no showing has been made that any abnormal propagation conditions exist in this area to warrant greater separations.

7. On November 16, 1956, May Broadcasting Company replied to petitioner's comments. May Broadcasting reasserted its contention that UHF Channel 16 or VHF Channel 7 instead of VHF Channel 3 should be allocated to Ainsworth for satellite use.

8. On November 16, 1956, Herald Corporation, permittee of Station KETV, Channel 7, Omaha, Nebraska,[4] filed reply comments in which it supports petitioner's request for the allocation of Channel 3 to Ainsworth. Herald asserts that, since petitioner's request complies with the Commission's minimum mileage separation requirements, there is no reason to refuse to make the requested allocation of Channel 3. Herald contends that May Broadcasting Company's counterproposal that Channel 7 be allocated to Ainsworth instead of Channel 3 should be rejected for two reasons: first, because petitioner has stated that it would prefer Channel 3; and second, because May Broadcasting's comparison of interference which would result from the allocation of Channel 3 as contrasted with that of Channel 7 is based upon unwarranted engineering assumptions; viz., Appendix A contained in the Commission's Report and Order in Docket No. 11532, which appendix was withdrawn by the Commission in an order dated November 6, 1956. Herald asserts that it doubts the need of allocating a VHF channel to a community as small as Ainsworth, but, on the assumption that the Commission might determine that such an allocation is required by the public interest, it offers as a counter-proposal the following:

City	Channel	
	Present	Proposed
Ainsworth, Nebr.	----------	8—
McCook, Nebr.	8—, 17	3+, 17

An engineering affidavit appended to Herald's reply comments asserts that this counter-proposal may be accomplished in full compliance with all of the Commission's rules.

9. Herald prefaced its reply comments with the argument that the Commission has violated the provisions of the Administrative Procedure Act by ruling, as it did in its Memorandum Opinion and Order in the subject proceeding, released November 6, 1956 (FCC 56-1062), that counter-proposals relating to television channels not involved in a notice of proposed rule making are, if presented in the form of comments, entitled thereby to consideration and decision. Herald cites no authority in support of its contention, and we disagree with it. Rule making proceedings could go on interminably if an adminstrative agency such as this Commission should be required, wherever a meritorious counter-proposal is advanced in comments, to issue a further notice of proposed rule making and to extend the time for filing comments for a reasonable period after the issuance of the further notice. In the instant case, Herald can show no real injury from lack of actual notice of the filing of the May Broadcasting counterproposal, since, as Herald concedes, the Commission by a press release on November 1, 1956 noted that it had adopted a Memorandum Opinion and Order relating to the May Broadcasting counterproposal, which Memorandum Opinion and Order, as heretofore stated, was issued on November 6, 1956 (FCC 56-1062) and was published in the FEDERAL REGISTER on November 14, 1956 (21 F. R. 8821). If Herald had not had sufficient time to prepare its reply comments, it could have requested an extension of time, but this it did not choose to do. Herald was able to file its reply comments on time, and they have been carefully considered by the Commission.

10. On December 31, 1956, Herald Corporation filed supplemental reply comments[5] requesting that Channel 12 be assigned to Ainsworth instead of Channel 8 as set out in their reply comments of November 16, 1956. In order to accomplish this, it would be necessary to substitute Channel 10— for 12+ in Huron, South Dakota and Channel 4 for 10+ at Pierre, South Dakota.

11. On January 23, 1957, May Broadcasting Company filed additional comments calling attention to the Commission's action of November 21, 1956 assigning Channel 8 to Hay Springs, Nebraska (Docket No. 11831, FCC 56-1153) and also to the petition, filed January 8, 1957 and amended on March 7, 1957 asking that Channel 4 be allocated to Hay Springs in place of Channel 8. May Broadcasting Company notes that just as the original action allocating Channel 8 to Hay Springs rendered unfeasible, because of mileage separations, Herald's proposal to use Channel 8 in Ainsworth; so also the new proposal to allocate Channel 4 to Hay Springs is in conflict with Herald Corporation's December 31, 1956 proposal that Channel 12 be allocated to Ainsworth. This conflict results from the fact that the allocation of Channel 4 to Hay Springs would preclude the use of Channel 4 in Pierre, South Dakota, since these cities are only about 166 miles apart.

[3] This party makes other arguments concerning its own operation and that of the proposed satellite operation of the petitioner, and petitioner replies to these contentions. However, since these contentions are not relevant to a rule making proceeding such as the instant one, no further consideration will be given to these matters.

[4] Station KETV is not yet on the air.

[5] A petition to accept the comments was filed. Herald Corporation notes that on November 16, 1956 (5 days after Herald's reply comments were filed) the Commission issued its Report and Order in Docket No. 11831, assigning Channel 8 to Hay Springs, Nebraska, which renders impossible the utilization of Channel 8 at Ainsworth, since Ainsworth is only 145 miles from Hay Springs.

12. The Commission is here presented with a request to assign a first VHF channel in the community of Ainsworth, Nebraska. Petitioner has requested Channel 3 non-offset. The opposing parties have suggested that instead of Channel 3 a UHF channel should be assigned or that Channel 7 minus, Channel 8 or Channel 12 minus be assigned to this community. Petitioner has replied that the area in question does not have any UHF assignments or stations and that wide-area coverage is necessary in order to make a first television service available to the area. We are of the view that the assignment of a first VHF channel to Ainsworth would be in the public interest, since it would provide a service to a large area presently without such service.

13. The parties which have opposed the proposal to allocate Channel 3 to Ainsworth, May Broadcasting Company (KMTV) and Triple-City Broadcasting Company (KDLO–TV), allege that such an assignment would result in destructive interference to substantial portions of their service areas as well as to other cochannel and adjacent channel stations. Section 3.612 of our rules expressly states that television stations are not protected from any interference which may be caused by the grant of a new station in full compliance with all of the Commission's allocation requirements. The nature and extent of the protection from interference accorded to stations is limited solely to the protection resulting from the minimum assignment and station separation requirements and the rules relating to maximum powers and antenna heights. The contentions of KMTV and KDLO–TV are therefore without merit.

14. We are of the view that the assignment of Channel 3 plus to Ainsworth would provide a fair, efficient and equitable utilization of available frequencies. Since petitioner has requested channel 3, and since such an assignment can be made in accordance with our rules and in conformance with the mandate of section 307 (b) of the Communications Act of 1934, as amended, it is not necessary that we consider further any of the suggested counterproposals to allocate any channel to Ainsworth in lieu of Channel 3.

15. The assignment of Channel 3 plus * to Ainsworth will require a change in the offset carrier of Station KOTA–TV, Rapid City, South Dakota, an operating station, from 3 plus to 3 minus, and also will require a change in the offset in Miles City, Montana, from 3 minus to 3 even.

16. Authority for the adoption of the amendment herein is contained in sections 4 (i), 301, 303 (c), (d), (f), (g), (r), and 307 (b) of the Communications Act of 1934, as amended, and section 4 of the Administrative Procedure Act.

17. In view of the foregoing, *it is ordered*, That, effective April 30, 1957, the table of assignments contained in § 3.606 of the Commission's rules and regulations is amended insofar as the community named is concerned, as follows:

a. Add to the Table:

City	*Channel No.*
Ainsworth, Nebr	3+

(b) Change the offset carrier requirement only at Rapid City, South Dakota from 3+ to 3— and in Miles City, Montana from 3— to 3 even.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307)

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57–2516; Filed, Apr. 1, 1957; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 905, 906]

[Docket Nos. AO–209–A9, AO–210–A9]

MILK IN OKLAHOMA METROPOLITAN MARKETING AREA (PRESENTLY OKLAHOMA CITY AND TULSA-MUSKOGEE MARKETING AREAS)

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

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 Oklahoma City, Oklahoma, on June 5–8, 1956, pursuant to notice thereof issued on May 17, 1956 (21 F. R. 3319).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on January 16, 1957, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on January 19, 1957 (22 F. R. 405).

Within the period reserved therefor, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

To the extent that suggested findings and conclusions proposed by interested parties are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues, findings and conclusions and the general findings of the recomended decision (22 F. R. 405; F. R. Doc. 57–426) are hereby approved and adopted as the material issues, the findings and the conclusions of this decision as if set forth in full herein subject to the following revisions:

1. At the end of the third complete paragraph in column 3, 22 F. R. 406, delete the clause: "both of which would be regulated by the proposed order."

2. Delete the first complete paragraph in column 1, 22 F. R. 407, and substitute therefor the following:

Ponca City should not be included in the proposed marketing area. Vigorous exceptions were taken to the recommendations of the Deputy Administrator that Ponca City be included in the marketing area without amending the order to provide standards for participation in the marketwide pool. It is contended in the exceptions that in the vicinity of Ponca City are plants which are primarily manufacturing plants and which, by disclosing of only a small volume of milk in Ponca City, could draw substantial sums from the producer-settlement fund without in turn assuming any responsibility for supply the market. Such a development would defeat the purposes of the order and lead to the disruption of orderly marketing conditions.

As noted below the record does not afford a basis for establishing compensatory payments on milk which might be disposed of in the marketing area by plants which failed to meet the standards for pool plants in the event such were incorporated in the order. It would not be practicable to establish standards for pool plants without providing compensatory payments on milk disposed of in the market by plants which fail to meet such standards. Such a course could result in a substantial volume of completely unregulated milk being disposed of in the marketing area and could only lead to a complete breakdown of the orderly marketing processes.

After further review of the record in the light of the exceptions which have been filed it is concluded that the addition of Ponca City to the marketing

* See footnote 1 for details on the offset carrier of Channel 3 in Ainsworth.

area should be delayed until further hearings can be held to receive additional evidence with respect to pool plant standards and compensatory payments.

3. Delete the paragraph beginning at the bottom of column 1, 22 F. R. 407, and the first complete paragraph in column 2, 22 F. R. 407, and substitute therefor the following:

Producers also proposed that, of the 2 percent shrinkage permitted under the order, in the case of milk which is transferred from a supply plant to a bottling plant, one-half of one percent should be assigned to the transferor plant and the remaining one and one-half percent should be assigned to the transferee plant. At the present time, allowable shrinkage is permitted only in the plant where milk is received directly from the farms of producers. Thus the receiving station where milk is merely received and cooled is permitted shrinkage up to 2 percent of its receipts while the bottling plant where the milk is processed and bottled for distribution to consumers is permitted no shrinkage on such milk.

It is an established fact that the plant losses incurred in processing and bottling milk are substantially greater than those incurred in a plant receiving and cooling milk. Accordingly, the bottling plant should be permitted up to one and one-half percent shrinkage on milk which it receives from a supply plant and the supply plant should be limited to one-half of one percent allowable plant shrinkage on such milk.

4. Delete the last two sentences in the second complete paragraph in column 3, 22 F. R. 407, and substitute therefor the following: "The provisions of § 906.44 (a) relating to the classification of milk transferred between pool plants should also apply to milk caused to be delivered to a pool plant by a cooperative association in its capacity as a handler. This will permit such milk to be classified as Class II milk if the cooperative association and the operator of the pool plant agree to such classification and the pool plant has sufficient Class II utilization to cover such classification. In the recommended decision it was proposed that such milk be prorated over the utilization of the receiving handler. It was felt that this might simplify some of the accounting problems.

"The producer associations excepted to this method of allocation and requested that such milk be allocated in the same manner as all other interhandler transfers. They indicated the change was necessary to facilitate the movement of milk, since there is a reluctance on the part of handlers with manufacturing facilities to accept reserve milk which would be classified as Class I, even though it would not affect the total cost of milk to the handler. They also expressed the fear that the originally proposed method might result in a loss to the cooperative association on milk moved to a plant at which a location differential was applicable. Actually, there would be no difference in the total value of the pool or in the net cost to the cooperative associations regardless of the method employed. Since the originally proposed method of allocating such milk constitutes an apparent psychological barrier to the movement of milk, it should be revised in accordance with the exceptions."

5. Immediately following the above insert the following:

There should be incorporated in §906.46 governing the allocation of milk, a provision identical to that contained at the present time in Order No. 5 regulating the handling of milk in the Oklahoma City marketing area, whereby there is subtracted from Class I utilization milk received from a producer-handler in packaged form and disposed of on routes under the label of the producer-handler. This provision has been a part of the Oklahoma City order and is designed to accommodate a situation peculiar to that market. Merging of the Oklahoma City marketing area with the Tulsa-Muskogee marketing area does not eliminate the need for this provision.

The proposal of one of the handlers that milk of a handler's own production be prorated over the utilization in his plant should be denied. The handler who produces a portion of his supply is in no different position than the other producers who furnish milk to his plant. He should enjoy the same proportion of Class I sales as other producers on the market and bear the same percentage of the reserve supplies needed by the market. To permit proration would encourage such a person to limit his purchases of producer milk to no more than his Class I requirements and to depend on purchases from other handlers whenever extra milk was needed. Thus, such a person could have all his own production in Class I while requiring the remaining producers on the market to carry his reserve supply.

6. After the first paragraph following the table in column 2, 22 F. R. 408, insert the following: "In computing the standard utilization percentage for the two months immediately following the effective date of the recommended order, as amended, the market administrator should combine the receipts of milk from producers and the gross Class I sales as reported under the Oklahoma City and Tulsa-Muskogee orders for the applicable months. This is necessary if the supply-demand adjustment factor is to reflect accurately the conditions in the combined marketing area."

7. After the fifth complete paragraph in column 1, 22 F. R. 409, insert the following:

At the producer level the location differential should apply to all milk paid for at the uniform price during the months of August through January and to all base milk during the remaining months. It should not apply to excess milk. Excess milk is utilized primarily in manufactured dairy products. As noted above, there is very little diference in the value of milk for manufactured products associated with the location of the plant at which the milk is received. Hence, the value of excess milk is essentially the same at any point in the milkshed. Most of the time the excess price will be identical to the Class II price which is the average of the prices paid for ungraded milk for manufacturing at plants scattered through the milkshed. The deduction of a location differential from the excess price would therefore result in producers receiving for Grade A milk, less than is being paid for ungraded milk for manufacturing in the areas in which their farms are located.

8. Immediately following the first paragraph in column 2, 22 F. R. 410, insert the following:

Since the expansion of the marketing area will bring under regulation plants not previously regulated, the order should provide for the assignment of bases to dairy farmers shipping to these plants who will become producers on the effective date of the amended order. These producers should be assigned bases equal to those which they would have earned had the plants to which they deliver their milk been subject to regulation during the base-forming period. The market administrator, therefore, shall determine bases for these producers by dividing their total deliveries to the plants during the months of September through December 1956 by the number of days, not to be less than 90, of such producer's delivery during the four months.

9. In the first complete paragraph in column 2, 22 F. R. 406, delete the phrase, "and Ponca City in Kay County."

10. In the first complete paragraph in column 1, 22 F. R. 409, insert the word "and" between the words "Stillwater" and "Cushing", and delete the words "and Ponca City".

Order of the Secretary Directing That a Referendum Be Conducted Among the Producers Supplying Milk To the Oklahoma Metropolitan Marketing Area; Determination of Representative Period; 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 proposed order regulating the handling of milk in the Oklahoma Metropolitan marketing area) who, during the month of December 1956, were engaged in the production of milk for sale in the marketing area specified in the aforesaid proposed order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

The month of December 1956 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area in the manner set forth in the attached 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.

Hobart E. Crone 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), such referendum to be completed on or before the 20th day from the date this referendum order is issued.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively "Marketing agreement regulating the handling of milk in the Oklahoma Metropolitan marketing area" and "Order, as amended, regulating the handling of milk in the Oklahoma Metropolitan 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 marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order which will be published with this decision.

This decision filed at Washington, D. C., this 28th day of March 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] as Amended, Regulating Handling of Milk in Oklahoma Metropolitan Marketing Area

§ 906.0 *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 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 upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Oklahoma Metropolitan marketing area (presently the Oklahoma City and Tulsa-Muskogee marketing areas). Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby 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 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 supply of and demand for milk in the 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;

(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; and

(4) 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 expense, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all skim milk and butterfat contained in (i) producer milk (including the handler's own production), and (ii) other source milk in pool plants which is allocated to Class I milk.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oklahoma Metropolitan 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 hereby further amended to read as follows:

DEFINITIONS

§ 906.1 *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.).

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

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

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

§ 906.5 *Cooperative association.* "Cooperative association" means any coop-

[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.

erative 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";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 906.6 *Oklahoma metropolitan marketing area.* "Oklahoma metropolitan marketing area" hereinafter referred to as the "marketing area" means all the territory within Tulsa County; the city of Sapulpa and the township of Sapulpa in Creek County, that part of Black Dog township in 20 North, Ranges 10, 11 and 12 East in Osage County; the cities of Muskogee, McAlester and Tahlequah; Oklahoma County, except Deer Creek, Deep Fork and Luther townships; Moore, Taylor, Case, Liberty, Norman and Noble townships in Cleveland County; Bales, Davis, Dent, Brinton, Rock Creek, Forest and Earlsboro townships in Pottawatomie County; the city and township of Guthrie in Logan County; and the city and township of Stillwater and Union township including the city of Cushing in Payne County.

§ 906.7 *Pool plant.* "Pool plant" means any milk processing plant, other than one which is exempt pursuant to § 906.61, which is approved by any health authority having jurisdiction in the marketing area (a) from which Class I milk is disposed of on routes in the marketing area, (b) at which there is received, weighed and commingled, milk of dairy farmers holding permits or authorizations issued by a municipal health authority having jurisdiction in the marketing area and from which part or all of the receipts of such milk during the month are transferred to a plant described in paragraph (a) of this section or from which more than one-half of the receipts of such milk or of the butterfat contained therein were so transferred in each of the immediately preceding months of September through December and the operator thereof has not requested that such plant be considered a nonpool plant, or (c) at which milk is received directly from the farms of dairy farmers holding permits or authorizations issued by a municipal health authority having jurisdiction in the marketing area and which is operated by a cooperative association having member producers whose milk is received at the pool plants of other handlers.

§ 906.8 *Nonpool plant.* "Nonpool plant" means any milk plant which is not a pool plant.

§ 906.9 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants: *Provided,* That in the case of recognized divisions of a corporation which are operated as separate business units, each such division shall be deemed to be a handler,

(b) A cooperative association which owns or operates a plant described in § 906.7 (c) with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered), or

(c) Any cooperative association with respect to the milk of its member producers which is caused by it to be diverted to a nonpool plant for the account of such cooperative association.

§ 906.10 *Producer.* "Producer" means any person, other than a producer-handler, who, under a dairy farm permit, authorization or rating for the production of milk to be disposed of as Grade A milk issued by a duly constituted health authority, produces milk which is received at a pool plant directly from the farm of such person. This definition shall include any person meeting the above requirements whose milk is caused by a handler to be diverted from a pool plant to a nonpool plant for the account of such handler, and milk so diverted shall be deemed to have been received at the pool plant from which it was diverted for the purpose of determining location differentials pursuant to § 906.81. This definition shall not include a person with respect to milk produced by him which is received at a plant which is regulated by another order issued pursuant to the act.

§ 906.11 *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.

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

§ 906.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates a pool plant, but who receives no milk from producers.

§ 906.14 *Base milk.* "Base milk" means milk received by a handler from a producer during any of the months of February through July which is not in excess of such producer's daily average base computed pursuant to § 906.65 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 906.15 *Excess milk.* "Excess milk" means milk received by a handler from a producer during any of the months of February through July which is in excess of the base milk received from such producer during such month, and shall include all milk received from producers for whom no daily average base can be computed pursuant to § 906.65.

§ 906.16 *Route.* "Route" means any delivery (including any delivery by a vendor) or disposition at a plant store of milk, skim milk, buttermilk, flavored milk drinks or cream other than a delivery in bulk to a milk plant.

MARKET ADMINISTRATOR

§ 906.20 *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.

§ 906.21 *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.

§ 906.22 *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 a 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 § 906.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 906.87) 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) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(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, 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, after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 906.30 to 906.32, inclusive,

(2) Maintained adequate records and facilities pursuant to § 906.33, or

(3) Made payments pursuant to §§ 906.80 to 906.88, inclusive;

(i) On or before the 12th day after the end of each month, report to each co-

operative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purposes of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk 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 12th day of each month the minimum price for Class I milk computed pursuant to § 906.51 (a), and the Class I butterfat differential computed pursuant to § 906.52 (a) both for the current month; and on or before the 5th day of each month, the minimum price for Class II milk pursuant to § 906.51 (b) and the Class II butterfat differential computed pursuant to § 906.52 (b), both for the previous month; and

(2) On or before the 12th day of each month the uniform price(s) computed pursuant to § 906.72 or § 906.73, as applicable, and the butterfat differential computed pursuant to § 906.82, both for the previous month; 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

§ 906.30 *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 February through July, 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.

§ 906.31 *Reports of payments to producers.* 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 of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of February through July such producer's deliveries of base and excess milk;

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

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

§ 906.32 *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, and

(b) Each handler who causes milk to be diverted to a nonpool 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.

§ 906.33 *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 association; 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.

§ 906.34 *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, 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

§ 906.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received during the month by a handler which is required to be reported pursuant to § 906.30 shall be classified by the market administrator pursuant to the provisions of §§ 906.41 to 906.46, inclusive.

§ 906.41 *Classes of utilization.* Subject to the conditions set forth in §§ 906.43 and 906.44, inclusive, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, any mixture (except bulk ice cream mix) of cream and milk or skim milk, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section; and

(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) In cream stored and frozen,

(3) Disposed of for livestock feed,

(4) In skim milk dumped, after prior notification to, and opportunity for verification by the market administrator,

(5) In actual shrinkage of producer milk in an amount not to exceed one-half percent of the total pounds of skim milk and butterfat received directly from producers' farms, plus one and one-half percent of the total pounds of skim milk and butterfat in milk, skim milk and cream in fluid form received at a pool plant from both producers and other pool plants and which were not disposed of in bulk to the pool plant of another handler,

(6) In shrinkage of other source milk, and

(7) In inventory at the end of the month as milk, skim milk, cream (except frozen cream) or any product specified in paragraph (a) of this section.

§ 906.42 *Shrinkage.* The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in each pool plant; and

(b) Assign the shrinkage of skim milk and butterfat pro rata between producer milk and other source milk.

§ 906.43 *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 classified as Class II milk shall be reclassified if such skim milk or butterfat is later disposed of by such handler or another handler (whether in original or other form) as Class I milk. Any skim milk or butterfat which was classified as Class II in the previous month pursuant to § 906.41 (b) (7) shall be reclassified as Class I milk if it is subtracted in the current month from Class I pursuant to § 906.46 (a) (4).

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

(a) As Class I milk if diverted or transferred in bulk in the form of milk,

skim milk or cream, including milk caused to be delivered to such handler's pool plant(s) from producers' farms by a cooperative association in its capacity as a handler pursuant to § 906.9 (b), to the pool 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 the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 906.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further,* 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 to a producer-handler in the form of milk, skim milk or cream;

(c) As Class I milk if diverted or transferred in bulk in the form of milk or skim milk to a nonpool plant located more than 300 miles from either Oklahoma City or Tulsa, Oklahoma, by the shortest hard-surfaced highway distance as determined by the market administrator;

(d) As Class I milk if transferred in the form of cream to a nonpool plant, unless the handler claims classification as Class II milk, establishes the fact that such cream was transferred without Grade A certification, each container was labeled or tagged to indicate that the contents are for manufacturing use only, and the shipment was so invoiced;

(e) (1) As Class I milk, if diverted or transferred in bulk in the form of milk or skim milk to a nonpool plant located not more than 300 miles by shortest hard-surfaced highway distance from either Oklahoma City or Tulsa, Oklahoma, from which fluid milk is disposed of on wholesale or retail routes or to other milk plants, unless all the following conditions are met:

(i) The market administrator is permitted to audit the records of such nonpool plant; and

(ii) Such nonpool plant received milk from dairy farmers who the market administrator determines constitute its regular sources of supply for Class I milk;

(2) If these conditions are met the market administrator shall classify such milk as reported by the handler subject to verification as follows: (i) Determine the use of all skim milk and butterfat at such nonpool plant, and (ii) allocate the skim milk and butterfat so transferred or diverted to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the nonpool plant directly from dairy farmers which the market administrator determines constitute its regular sources of supply for Class I milk;

(f) As Class II milk if diverted or transferred in bulk in the form of milk or skim milk to a nonpool plant located not more than 300 miles by shortest hard-surfaced highway distance from either Oklahoma City or Tulsa, Oklahoma, and from which fluid milk is not disposed of on wholesale or retail routes, except that:

(1) If such nonpool plant transfers milk or skim milk to a pool plant, an equal amount of skim milk and butterfat transferred to such nonpool plant from the pool plants of other handlers shall be deemed to have been transferred directly to the second pool plant and shall be classified pursuant to the provisions of paragraph (a) of this section; and

(2) If such nonpool plant transfers milk or skim milk to a second nonpool plant which distributes fluid milk on wholesale or retail routes, skim milk or butterfat transferred from the pool plant to the first nonpool plant shall be Class I milk to the extent of the amount so transferred to such second nonpool plant unless it is established that the milk or skim milk was transferred to the second nonpool plant without Grade A certification and with each container labeled or tagged to indicate that the contents are for manufacturing use only, and that the shipment was so invoiced.

§ 906.45 *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.

§ 906.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 906.45 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 § 906.41 (b) (5);

(2) Subtract from the total pounds of skim milk in Class I, the pounds of skim milk in other source milk received in bottles or other consumer-type packages from the pool plant of a producer-handler which is located in the marketing area and disposed of as Class I milk in the same package and under the label of such producer-handler without further processing or packaging;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from other handlers in a form other than milk, skim milk or cream according to its classification pursuant to § 906.41;

(4) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk in receipts of other source milk;

(5) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk in inventory at the beginning of the month in the form of milk, skim milk, cream (except frozen cream) or any product specified in § 906.41 (a);

(6) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 906.44 (a);

(7) 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

(8) 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; and

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

MINIMUM PRICES

§ 906.50 *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) and (b) of this section and § 906.51 (b) for the preceding month.

(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., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant 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 mid-point 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, and

(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.

§ 906.51 *Class prices.* Subject to the provisions of §§ 906.52 and 906.53, inclusive, 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 plus $1.55 during the months of April, May and June and plus $1.95 during all other months: *Provided,* That for each of the months of September, October, November and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May and June such price shall be not more than that for the preceding month. To this price add or subtract a "supply-demand adjustment" of not more than 50 cents, computed as follows:

(1) Divide the total receipts of producer milk in the first and second months preceding by the total gross volume of Class I milk (excluding interhandler transfers and sales by producer-handlers and handlers partially exempt from this order pursuant to § 906.61) for the same months, multiply the result by 100, and round to the nearest whole number: *Provided,* That, in making this computation for the first month immediately following the effective date of this subpart, there shall be used the combined receipts of producer milk and the combined applicable gross volumes of Class I milk as reported under Part 905 of this chapter regulating the handling of milk in the Oklahoma City marketing area and as reported under this subpart during the first and second months immediately preceding the effective date of this subpart, and in making such computation for the second month following the effective date of this subpart, there shall be used the applicable combined figures for the two markets for the month immediately preceding the effective date of this subpart. The result shall be known as the Class I utilization percentage;

(2) Compute a "net deviation percentage" as follows:

(i) If the Class I utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero,

(ii) Any amount by which the Class I utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage", and

(iii) Any amount by which the Class I utilization percentage exceeds the maximum standard utilization percentage specified below is the "plus net deviation percentage":

Month for which price applies	Months used in computation	Standard utilization percentage	
		Minimum	Maximum
January	November–December	113	117
February	December–January	116	120
March	January–February	118	122
April	February–March	121	125
May	March–April	126	130
June	April–May	135	139
July	May–June	135	139
August	June–July	131	135
September	July–August	126	130
October	August–September	119	123
November	September–October	110	114
December	October–November	111	115

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One cent for each such percentage point of net deviation;

(ii) One cent for the lesser of:

(*a*) Each such percentage point of net deviation, or

(*b*) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One cent for the lesser of:

(*a*) Each such percentage point of net deviation;

(*b*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding, or

(*c*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

(b) *Class II milk.* 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

American Foods Co., Miami, Okla.
Eppler Creamery Company, Tulsa, Okla.
Gilt Edge Dairy, Norman, Okla.
Muskogee Dairy Products Co., Muskogee, Okla.
Page Milk Co., Coffeyville, Kans.
Pet Milk Co., Siloam Springs, Ark.

§ 906.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 906.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 906.51, 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 month specified below by the applicable factor listed and dividing the result by 10:

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

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

§ 906.53 *Location adjustment credit to handlers.* For that portion of milk which is (a) received directly from producers at a pool plant located 50 or more miles from the City Hall in Oklahoma City by the shortest hard-surfaced highway distance as determined by the market administrator, and (b) is classified as Class I milk, the prices specified in § 906.51 shall be subject to a location adjustment credit to the handler computed as follows:

Distance from the City Hall in Oklahoma City:	*Cents per hundredweight*
50 to 150 miles	10
150.1 to 165 miles	12
165.1 to 180 miles	14
180.1 to 195 miles	16
195.1 to 210 miles	18
210.1 to 225 miles	20
225.1 to 240 miles	22

Plus 1 cent for each additional 15 miles or fraction thereof in excess of 240 miles.

Provided, That for the purpose of calculating such adjustment, transfers to a pool plant at which no location adjustment credit is applicable or at which the location adjustment credit is less than at the transferor plant, shall be assigned to Class I milk in a volume not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the receipts from producers at such plant. Such assignment to transferor plants is to be made first to plants at which no adjustment credit is applicable and then in the sequence at which the lowest location adjustment credit would apply.

§ 906.54 *Equivalent prices.* If, for any reason, a price quotation required by this subpart for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 906.60 *Producer - handlers.* Sections 906.40 through 906.46, 906.50 through 906.53, 906.65, 906.66, 906.70 through 906.73, and 906.80 through 906.89, shall not apply to a producer-handler.

§ 906.61 *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 and whose milk is classified and priced under such other order, the provisions of this subpart shall not apply except that 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 BASE

§ 906.65 *Computation of daily average base for each producer.* For the months of February through July of each year, the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 906.66:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of September through December immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period: *Provided,* That, for the months of February through July 1957, (1) each producer, for whom a base was computed pursuant to § 905.65 of this chapter regulating the handling of milk in the Oklahoma City marketing area, shall be assigned an identical base under this subpart, and (2) for each person who becomes a producer on the effective date of this subpart by virtue of the plant to which such person delivers his milk having become a pool plant on the effective date of this order, and who was not a producer as defined in Part 905 of this chapter, regulating the handling of milk in the Oklahoma City marketing area immediately prior to the effective date of this subpart, the market administrator shall compute a base by dividing the total pounds of milk received at such plant from such person during the months of September through December, immediately preceding, by the number of days, not to be less than ninety, of such person's delivery in such period.

§ 906.66 *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 during the period of February through July 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.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

DETERMINATION OF UNIFORM PRICES

§ 906.70 *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 as follows:

(a) Multiply the pounds of such milk in each class by the applicable respective class prices (adjusted pursuant to §§ 906.52 and 906.53) and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 906.46 (a) (8) by the applicable class price(s); and

(c) Add any charges computed as follows:

(1) For any skim milk or butterfat in inventory reclassified pursuant to § 906.43 (b) which is not in excess of the quantity in producer milk classified as Class II milk (other than as shrinkage) in the handler's plant(s) for the preceding month, a charge shall be computed at the difference between its value at the Class I price for the current month and its value at the Class II price of the preceding month;

(2) For any other skim milk or butterfat reclassified pursuant to § 906.43 (b) a charge shall be computed at the difference between its value at the Class I price for the current month and its value at the Class II price for the month in which previously classified as Class II milk.

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

(a) Combine into one total the values computed pursuant to § 906.70 for all handlers who made the reports prescribed in § 906.30 and who made the payments pursuant to §§ 906.80 and 906.84 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 906.81.

(c) 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 § 906.85.

(d) 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 computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 906.82 and multiplying the resulting figure by the total hundredweight of such milk.

§ 906.72 *Computation of uniform price.* For each of the months of August through January the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers as follows:

(a) Divide the aggregate value computed pursuant to § 906.71 by the total hundredweight of milk included in such computation; and

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

§ 906.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of February through July the market adminstrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations 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 of milk computed pursuant to § 906.71 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; and

(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.

PAYMENTS

§ 906.80 *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 to 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 §§ 906.72 and 906.73, adjusted by the butterfat differential computed pursuant to § 906.82, subject to location adjustments to producers pursuant to § 906.81, 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 pursuant to § 906.85, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payment 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 last day of each month, to each producer for whom payment is not made pursuant to paragraph

(d) of this section for milk received from him during the first 15 days of the month at not less than the Class II price for the preceding month;

(c) To a cooperative association with respect to milk for which the cooperative association is a handler on or before the 10th day of each month for milk which is caused to be delivered to such handler during the preceding month at not less than the value of such milk at the applicable class prices; and

(d) (1) Upon receipt of written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall,

(i) Pay to the cooperative association on or before the 13th and 27th days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer,

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member producer,

(*a*) The total pounds of milk received during the preceding month,

(*b*) The total pounds of butterfat contained in such milk,

(*c*) The number of days on which milk was received,

(*d*) For the months of February through July the amount of base and excess milk received, and

(*e*) The amounts withheld by the handler in payment for supplies sold, and

(iii) Submit to the cooperative association on or before the 25th day of each month, written information which shows for each member producer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer, who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 906.81 *Location adjustment to producers.* In making payments to producers pursuant to § 906.80 each handler may deduct during the months of August through January for each hundredweight of milk and during the months of February through July for each hundredweight of base milk received from producers at a pool plant which is located 50 or more mlies from the City Hall in Oklahoma City by shortest hard-surfaced highway distance, as determined by the market administrator, the applicable amounts set forth below:

Distance from the City Hall in Oklahoma City:	*Cents per hundredweight*
50 to 150 miles	10
150.1 to 165 miles	12
165.1 to 180 miles	14
180.1 to 195 miles	16
195.1 to 210 miles	18
210.1 to 225 miles	20
225.1 to 240 miles	22

Plus 1 cent for each additional 15 miles or fraction thereof in excess of 240 miles.

§ 906.82 *Producer butterfat differential.* In making payments pursuant to § 906.80 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.

§ 906.83 *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 §§ 906.84 and 906.86, and out of which he shall make all payments to handlers pursuant to §§ 906.85 and 906.86, inclusive.

§ 906.84 *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 § 906.70 is greater than the amount required to be paid producers by such handler pursuant to § 906.80.

§ 906.85 *Payment 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 § 906.70 is less than the amount required to be paid producers by such handler pursuant to § 906.80: *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.

§ 906.86 *Adjustments of accounts.* Whenever audit by the market administrator of any handler's reports, books, records or accounts discloses errors resulting on 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 payments set forth in the provisions under which such error occurred.

§ 906.87 *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 § 906.80 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 from producers 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 deductions 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, identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 906.31. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 906.31.

§ 906.88 *Expense 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.

§ 906.89 *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 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 906.90 *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 pursuant to § 906.91.

§ 906.91 *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 of this subpart 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.

§ 906.92 *Continuing obligations.* 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.

§ 906.93 *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 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

§ 906.100 *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.

§ 906.101 *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 of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 57-2535; Filed, Apr. 1, 1957; 8:54 a. m.]

[7 CFR Part 969]

[Docket No. AO-254-A2]

AVOCADOS GROWN IN SOUTH FLORIDA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO AMENDED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Homestead (Modello), Florida, on December 11, 1956, after notice thereof was published in the FEDERAL REGISTER (21 F. R. 9383), on proposed amendments to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969), hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of avocados grown in South Florida, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

On the basis of the evidence introduced at the hearing, and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on March 1, 1957, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F. R. Doc. 57-1721; 22 F. R. 1442-1447).

An exception to the recommended decision was filed by J. R. Brooks, Homestead, Florida, a grower and handler of avocados. This exception is discussed and ruled on below in the light of the hearing record evidence pertaining thereto. To the extent that the findings and conclusions may be at variance with such exception, such exception is denied. In addition, two points were raised on behalf of the Asociacion De Cosecheros-Exportadores De Frutas y Vegetales De Cuba, of Havana, Cuba, by Dr. Gustavo Godoy, its Acting Secretary, which are beyond the proper scope of exceptions, but are in the nature of suggestions for further amendments of the marketing agreement and order on aspects which were not considered at the amendment hearing. In these circumstances, it would not be appropriate to consider such suggested amendments in this proceeding.

Ruling on exception. The exception to the aforementioned recommended decision filed by J. R. Brooks, Homestead, Florida, a grower and handler of avocados, related to the recommended denial of a proposal, set forth in the notice of hearing and discussed at the hearing, that § 969.51 of the marketing agreement and order be amended to authorize the establishment of regulations with respect to avocados shipped to destinations within the production area different from those applicable to avocados shipped to destinations outside of such area.

It was argued in the exception that the aforementioned proposal should be approved because: (1) The use of the proposed authority would be permissive, and not mandatory; (2) it would eliminate the "bootlegging" of off-grade avocados by affording a legitimate sales outlet for them within the production area; (3) contrary to the testimony presented at the hearing, a recent survey "showed that avocados were only in 48½ percent of the stores in Miami," and this would not be the case if "cheaper fruit, in

cheaper containers, had been available;" (4) current prices for containers suitable for the marketing of "of-grade" avocados, are cheaper than was testified at the hearing was the case; and (5) "sales in Miami and Tampa were off by about 60 percent whereas there was only about 28 percent difference in crops between 1956 and 1957."

With respect to (1), the fact that the proposed authorization would be permissive is not, of itself, sufficient to justify adoption of the proposal. The evidence of record concerning this proposal tends to show that, in general, the exercise of the authority would adversely influence growers' income since, as hereinafter set forth, the marketing costs would largely dissipate the returns from the sale of the lower grade avocados and, as such avocados would displace an equivalent quantity of quality avocados in the local markets, the net grower returns from the local markets for avocados would be reduced. The information advanced in support of (2), (3), (4), and (5) was obtained subsequent to the date (December 11, 1956) on which the hearing was concluded and, of course, does not appear in the record of such hearing. Such record constitutes the sole basis upon which each and every decision in this proceeding must be based. However, even if such information was properly available for consideration in this connection, it is not deemed to be of sufficient probative value to justify any change in the findings and conclusions to which it pertains. With respect to (2), the results of a survey made on February 12, 1957, of 18 Miami stores, selected at random, indicating that the avocados found in 78 percent of such stores would not meet the minimum quality standards prescribed under this program, is not believed to be material to the issue. The question is whether the order should be amended to authorize the establishment of regulations applicable to shipments of avocados to markets within the production area that are different from those applicable to other shipments. Such question should be resolved on the basis of what action would be in the best interests of the avocado industry. The fact that there may be shipments of avocados in violation of the regulation does not provide an adequate basis for concluding that action should be taken which would now make such sales legally permissible. Furthermore, even though avocados not meeting the minimum quality requirements prescribed under the program may have been observed in retail stores at the time the survey was conducted, it should not be assumed without further substantiating evidence that the fruit did not meet such requirements at the time it left the handlers' packing houses. With regard to (3), it is stated that avocados were found by the survey to be in only 48½ percent of the stores in Miami, from which it is deduced by the exceptor that avocados would have been found in more stores had cheaper fruit in cheaper containers been available. However, this deduction is not otherwise supported. Nor is any information given to indicate whether the stores included in the survey were representative of all stores in that area or what percentage of such stores normally stock avocados. The survey was made at a time when avocado shipments were declining seasonally and the total quantity of avocados available was below that available earlier in the season. As regards (4), the cost consideration set forth by the exceptor is confined wholly to containers, whereas other costs which must be considered in this connection include handling, packing, and selling charges. When these total costs are considered in the light of the sales price, estimated at the hearing to be 50 to 75 cents per bushel, no reason appears to alter the conclusion that little or no net returns from the sale of the "off-grade" avocados would accrue to the avocado growers. Furthermore, the evidence of record shows that only a small proportion of these "off-grade" avocados found a ready market prior to the time the marketing agreement and order was made effective. In connection with (5), the claim is made that avocado sales in Miami and Tampa at the present time are about 60 percent below such sales in those cities last year, whereas the present crop is only about 28 percent smaller than the previous crop. On the basis of the record, it appears that the lower volume of sales in these markets is due to other factors, as well as to the reduced crop, such as the current relatively high prices, which have tended to hold down purchases. Also, the present crop generally contains more small avocados than is normal, and the local markets (such as Miami and Tampa), usually prefer the large sized fruit. The result has been that fewer avocados of the desired larger sizes are available for sale in the production area.

This exception is, therefore, denied.

Findings and conclusions. The material issues, findings and conclusions, and the general findings of the aforesaid recommended decision (F. R. Doc. 57–1721; 22 F. R. 1442–1447), together with the following additional general finding, are hereby approved and adopted as the material issues, findings and conclusions, and general findings of this decision as if set forth in full herein:

(5) All handling of avocados grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Amended Marketing Agreement Regulating the Handling of Avocados Grown in South Florida" and "Order Amending the Amended Order Regulating the Handling of Avocados Grown in South Florida" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders, have been met.

It is hereby ordered, That all of this decision, except the attached agreement amending the amended marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement amending the amended marketing agreement are identical with those contained in the attached order amending the amended order which will be published with this decision.

Dated: March 28, 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] *Amending the Amended Order Regulating the Handling of Avocados Grown in South Florida*

§ 969.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of this order; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Homestead (Modello), Florida, on December 11, 1956, upon proposed amendments to Marketing Agreement No. 121, as amended, and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in South Florida. Upon the basis of evidence introduced at such hearing 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 said order, as amended, and as hereby further amended, regulates the handling of avocados grown in South Florida in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act;

(4) The said order, as amended, and as hereby further amended, prescribes, so far as is practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the pro-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

duction and marketing of avocados covered thereby; and

(5) All handling of avocados, as defined in the said order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of avocados grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid amended order, as hereby further amended, as follows:

1. Change the period at the end of § 969.8 *Grower* to a colon and add the following proviso: "*Provided,* That as used in § 969.22 the term grower shall include only those who have a proprietary interest in the production of 10 or more bearing avocado trees."

2. Delete the first sentence of § 969.22 (b) (2) and substitute therefor the following: "Only growers who are present at such nomination meetings, or who reside outside the production area and are represented at such nomination meetings by duly authorized agents, shall participate in the nomination and election of nominees for grower members and their alternates."

3. Delete paragraph (b) of § 969.30 *Procedure* and substitute therefor the following:

(b) The committee may provide for simultaneous meetings of groups of its members assembled at two or more designated places: *Provided,* That such meetings shall be subject to the establishment of telephone communication between all such groups and the availability of loud speaker receivers for each group so that each member may participate in the discussions and other actions the same as if the committee were assembled in one place.

4. Delete from § 969.32 *Annual report* the words "prior to March 31 of each fiscal year" and substitute therefor the words "as soon as practicable after the close of each fiscal year."

5. Delete the last sentence in paragraph (b) of § 969.41 *Assessments* and substitute therefor the following: "In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance."

6. Delete paragraph (a) of § 969.42 *Accounting* and insert, in lieu thereof, the following:

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraph (2) of this paragraph, each person entitled to a proportionate refund of the excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands repayment thereof, in which event it shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Such reserve may be established at an amount not to exceed approximately one fiscal year's operational expenses; and such reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is a crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations, during any fiscal year, prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

7. Add, after the first sentence in § 969.45 *Marketing research and development,* the following: "The committee may, to the extent necessary to carry out the projects established pursuant to this section, exempt the handling of avocados from any or all of the requirements contained in, or issued pursuant to, §§ 969.41, 969.51, and 969.54."

8. Add, after subparagraph (3) of paragraph (a) of § 969.51 *Issuance of regulations,* the following:

(4) Establish and prescribe pack specifications for the grading and packing of any variety or varieties of avocados and require that all avocados handled shall be packed in accordance with such pack specifications, and shall be identified by appropriate labels, seals, stamps, or tags, affixed to the containers by the handler under the supervision of the committee or an inspector of the Federal-State Inspection Service, showing the particular pack specifications of the lot.

Order Directing That a Referendum Be Conducted; Designation of Referendum Agents To Conduct Such Referendum; and Determination of Representative Period

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.; 68 Stat. 906, 1047), it is hereby directed that a referendum be conducted among the producers who, during the period April 1, 1956, through March 31, 1957, both dates inclusive (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the Counties of Brevard, Orange, Lake, Polk, Hillsborough, and Pinellas in the State of Florida, and all of the counties of that State situated south of such counties, in the production of avocados for market, to ascertain whether such producers favor the issuance of an order amending Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in South Florida; and said amendatory order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. M. F. Miller and W. R. Cleveland, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated agents of the Secretary to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (15 F. R. 5176; 19 F. R. 35).

Copies of the aforesaid annexed order, of Order No. 69, as amended, the aforesaid referendum procedure (15 F. R. 5176; 19 F. R. 35), and of this order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D. C.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained at the said office, or from any appointee hereunder.

Dated: March 28, 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-2534; Filed, Apr. 1, 1957; 8:53 a. m.]

[7 CFR Part 980]

[Docket No. AO-182-A7]

HANDLING OF MILK IN TOPEKA, KANSAS, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Topeka, Kansas, on March 18, 1957, pursuant to notice thereof issued on March 8, 1957 (22 F. R. 1640).

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

1. The pricing of Class II milk; and

2. The need for prompt action by the Secretary with respect to Issue No. 1.

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

1. *Class II price.* From April 1 through July 31, 1957, the Class II price under the Topeka order should be the higher of (1) that presently specified under the order or (2) the Class II price under Order No. 13, regulating the handling of milk in the Greater Kansas City marketing area.

During this period, the Kansas City Class II price is the basic formula price minus 20 cents, while the Topeka Class II price is the average price paid for ungraded milk at five Kansas manufacturing plants. The basic formula price under the Kansas City order is the higher of the mid-western condensery base price and a butter-powder formula obtained by adding 20 percent to the price of 92-score butter at Chicago, multiplying by 3.8 and adding a nonfat solids value obtained by averaging the prices of spray and roller process nonfat dry milk at manufacturing plants in the Chicago area, deducting 5.5 cents and multiplying by 7.

The local plant pay prices have been low in comparison with manufacturing milk values as measured by the Kansas City basic formula even during the months when the 20-cent deduction is applied. In the months of April through July 1955, the Topeka Class II price averaged 7.26 cents below the Kansas City Class II price and in the same months of 1956 was 7.83 cents lower. The list of local plants in the Topeka order was changed effective October 1, 1956. However, in February 1957, when the Topeka Class II price was based on these plants, it was 35 cents below the Kansas City basic formula price or 15 cents below the price which would have prevailed if the 20-cent discount had been applicable. One of the shortcomings of the local plant prices as a measure of the manufacturing value of milk is that the announced prices do not include the premiums for milk cooled by mechanical refrigeration or otherwise of superior quality. Such premiums apply on a substantial proportion of all the milk purchased at manufacturing plants both currently and in the years 1951 through 1953.

The marketwide data do not permit a complete analysis of responses to the Class II price. The amendments of October 1 made some increase in the Class II price by adding a butter-powder alternative. During the months of October 1956 through February 1957, the Topeka Class II price averaged 30.3 cents below Kansas City, whereas it averaged 36.4 cents lower during the same months of 1955–56. However, the amendment of October 1 also expanded the marketing area and changed the pool plant definitions, thereby bringing new handlers into the market. The data do show a substantial increase in the proportion of producer milk which was classified as Class II. In the period October 1956 through February 1957, 33.3 percent was so classified as compared with 22.6 percent in the corresponding months of 1955–56.

The handler who manufacturers the major portion of the Class II milk in the Topeka market has added producers whose milk has not been needed to meet such handler's Class I requirements. Since such milk would have to be paid for by the handler at not less than the Class II price, it appears that such operation must have been considered advantageous to the handler. It was also brought out that the price paid by this same handler for Grade C milk, including a cooler premium of 15 cents, was above the Class II price during the month of February.

The fact that the Topeka Class II price tends to be lower than the Kansas City Class II price even during the months when that price is seasonally reduced by 20 cents and below prices paid for manufacturing grade milk and that handlers have substantially increased their volume of Class II milk support the conclusion that the Class II price should be increased to the extent indicated above.

2. *Prompt action.* 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 Deputy Administrator, Agricultural Marketing Service, and the opportunity for exceptions thereto, on the above issue.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. It is therefore found that good cause exists for omission of the recommended decision in order to inform interested parties of the conclusions reached. Uncertainty on the part of interested parties might lead to instability in the market. Knowledge of the action decided upon by the Secretary will permit those affected to adjust their operations promptly in accordance with such decision.

Any delay will defeat the purpose of the amendment. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereof, would make such relief substantially ineffective and therefore should be eliminated in this instance. The notice of hearing stated that consideration would be given to the question of whether economic and marketing conditions require emergency action with respect to any or all amendments deemed necessary as a result of the hearing. Action under the procedure described above was requested by proponents at the hearing.

Rulings on proposed findings and conclusions. Briefs which were filed on behalf of interested parties contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendment. 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 the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

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

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order amending the order, as amended. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Topeka, Kansas, Marketing Area" and "Order Amending the Order, Regulating the Handling of Milk in the Topeka, Kansas, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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.

Determination of representative period. The month of January 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order, regulating the handling of milk in the Topeka, Kansas, marketing area, is approved or favored by producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 28th day of March 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order [1] Amending the Order, as Amended, Regulating the Handling of Milk in the Topeka, Kansas, Milk Marketing Area

§ 980.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in

[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.

addition to the findings and determinations previously made in connection with the issuance of the aforesaid order, and of the previously issued amendments thereto; and all 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, as amended, regulating the handling of milk in the Topeka, Kansas, 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 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.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Topeka, Kansas, 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, as follows:

Amend § 980.50 (b) by inserting after the colon which precedes subparagraph (1), the following: "*Provided*, That, from the effective date hereof through July 1957 such price shall not be less than the Class II price as determined pursuant to § 913.51 (b) of this chapter, regulating the handling of milk in the Greater Kansas City marketing area:".

[F. R. Doc. 57-2538; Filed, Apr. 1, 1957; 8:55 a. m.]

[7 CFR Part 982]

[Docket No. AO-238-A7]

HANDLING OF MILK IN THE CENTRAL WEST TEXAS MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND ORDER, AS AMENDED

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 at Abilene, Texas, on March 18, 1957, pursuant to notice thereof which was published in the FEDERAL REGISTER on March 2, 1957 (22 F. R. 1319).

The material issues of record are concerned with:

1. A decrease in the price of milk used in the production of Cheddar cheese; and

2. The need for immediate action by the Secretary with respect to Issue No. 1.

Interested parties were given until March 21, 1957, for the filing of briefs. Within the time reserved no briefs were filed.

Findings and conclusions. The following findings and conclusions are based upon the evidence introduced at the hearing and the record thereof:

(1) Handlers should be allowed a credit on that portion of their Class II milk which is used in the production of Cheddar cheese. This credit per hundredweight of milk should be the difference between the Class II price for milk containing four percent butterfat and the price obtained by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin primary markets ("Cheddar" f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the United States Department of Agriculture during the month.

The current order provides that all milk used by handlers in manufactured products and milk transferred or diverted for the account of such handlers, including cooperative associations, to unapproved plants for manufacturing uses should be classified as Class II milk. The price for Class II milk during the months of July through March is the higher of the prices resulting from a butter nonfat solids formula or the average of the prices paid to dairy farmers for milk by three Texas evaporating milk plants. During April, May and June, the Class II price is the average of the prices paid by the three Texas manufacturing plants.

Facilities for the handling and utilization of milk not needed for Class I purposes are extremely limited in the Central West Texas marketing area. A few handlers engage in the manufacture of ice cream, and one handler makes cottage cheese, but the operations of most handlers are limited to the processing and packaging of Class I products. Because of the seasonal increase in milk production which was being experienced by the time of the hearing, receipts of milk from producers at a number of plants exceeded the requirements for Class I disposition and the Class II uses normally associated therewith.

The only additional manufacturing facilities available for the disposition of seasonal reserve milk are at two cheese plants located in Ballinger and Stephenville, Texas, and a manufacturing plant at Muenster, Texas. Because these two cheese plants are located within the milkshed, the diversion of milk to these plants is the most convenient means of disposing of the reserve supply from most handlers' plants without incurring additional costs of handling and transporting the milk. The plant located at Muenster, Texas, and operated by the North Texas Milk Producers Association, offers an outlet for milk at the regular Class II price under the order less transportation. This plant is able to use a substantial proportion of its receipts in the manufacture of condensed milk, dry nonfat milk solids and cream. Cheddar cheese is manufactured when it is not possible to use all of the receipts of milk in these other products. However, receipts at the Muenster plant, from producers under the North Texas order, have increased and at present this plant cannot accommodate seasonal reserve supplies of milk from the Central West Texas producers. The plant at Ballinger, Texas, currently owned and operated by the Central West Texas Producers Association, is a small plant which is operated intermittently; however, on weekends and during the season of flush production two or three shifts are often required, at increased costs, to accommodate the increased seasonal supplies of milk. Because of the small volume and seasonality in available supplies, it has not been possible to recover any value from the whey in the milk processed in this plant. Because of inadequate capacity and storage facilities this plant cannot take full advantage of the Government support outlet for Cheddar cheese in carload lots, and must dispose of a portion of its output at commercial prices which are depressed to about 31½ cents per pound during the season of flush production. Producers testified that under present conditions they could not realize more than $2.90 per hundredweight for milk manufactured into Cheddar cheese. This results in a loss of approximately 30 cents per hundredweight for milk so used during the flush season of production. Two handlers testified they also were absorbing losses on milk diverted for manufacture into Cheddar cheese and their policy in the future would be to refuse to receive such milk.

Testimony at the hearing indicates that the seasonal reserve supply of milk for the market during the flush production months of this year will be equal to or exceed that of a year ago. During 1956, a cheese credit was allowed on 5.4 million pounds of milk; in 1955, on 2.2 million pounds; and in 1954, on 5.6 million pounds, following amendments to

the order providing separate pricing of producer milk utilized in Cheddar cheese.

Although the testimony indicates that progress has been made in disposing of a larger proportion of the seasonal reserve supplies at the regular Class II price, it will be necessary to dispose of some milk to cheese plants during the coming flush production season. There is a tendency on the part of some handlers to depend upon the cooperative associations to divert the milk of their members when more milk is received than is needed for normal operations. With a provision for a lower price on milk used in Cheddar cheese, individual handlers will be more willing to dispose of their reserve milk supplies. At the same time, the cooperative associations will have an incentive to move as much of the reserve milk as is possible at the regular Class II price in order to maximize the returns to producers. Without a lower price for milk used in cheese, the cooperative associations would be forced to market a disproportionate share of the reserve milk on the market and bear the losses which would be incurred in marketing some of this milk. The financial condition of the Central West Texas Producers Association could be seriously impaired without a lower price for milk used in Cheddar cheese. If the producer associations did not accept the burden of handling seasonal reserve milk, individual producers would be without a market. Such producers, although needed during the remainder of the year, would be forced to withdraw from the market.

The record shows that cheese plants are currently paying $2.80 to $2.90 for milk of four percent butterfat content and that a price no higher is expected to be paid in the near future. During the last six months of 1956, the average of wholesale prices of Cheddar cheese at Wisconsin primary markets was 34.81 cents per pound. Cheese prices during 1956 were relatively stable and ranged from 33.06 cents in January, February, and March to 35.06 cents in June, July, and August. Multiplying the current Wisconsin primary market price for Cheddar cheese by 8.4 equals $2.90, or approximately the price realized per hundredweight for producer milk manufactured into Cheddar cheese. It is concluded that the price for producer milk used in the manufacture of Cheddar cheese should be the Wisconsin primary market price for the current month multiplied by 8.4.

Because of the necessity seasonally to import emergency supplies of milk in this market, and the need for providing incentive for the optimum allocation of milk among handlers and for disposal of reserve milk to outlets, which will afford prices equal to the regular Class II price, the credit on Class II milk used in the production of Cheddar cheese, as recommended herein, should be limited to the period from the effective date hereof through July 1957.

Where milk is transferred or diverted to an unapproved plant, the use of such milk should be considered to have been established at the unapproved plant if an equivalent amount of milk was used at such plant during the month in the production of Cheddar cheese. Similarly, in order for a handler to receive a credit for milk disposed of to a cheese plant, he must establish that his utilization of milk was such that an equivalent quantity of producer milk was available for and allocated to Class II milk during the month.

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 Deputy Administrator, Agricultural Marketing Service, and the opportunity for exceptions thereto on the above isue.

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.

It is therefore found that good cause exists for the omission of the recommended decision in order to infrom interested parties of the conclusions reached. Uncertainty on the part of interested parties might lead to instability in the market. Knowledge of the action decided upon by the Secretary will permit those affected to adjust their operations promptly in accordance with such decision.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further 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 amended, and as hereby proposed to be 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

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and are aplicable 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 January 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, as amended, regulating the handling of milk in the Central West Texas marketing area, in the manner set forth in the attached amending order, is approved or favored by producers, as defined in the order, as amended, and as proposed hereby to be further amended, who during such representative period were engaged in the production of milk for sale in the marketing area as defined in the order, as amended, and as proposed hereby to be further amended.

Marketing agreement and order, as amended. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Central West Texas Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Central West Texas 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 28th day of March 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Central West Texas Marketing Area

§ 982.0 *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 of the previously issued amendments thereto 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, as amended, regulating the handling of milk in the Central West Texas marketing area. Upon the basis of the evidence introduced

[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.

at such hearing 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.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Central West Texas 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, as follows:

1. Replace the period at the end of § 982.70 with a colon and add the following: *"And provided further,* That from the effective date hereof through July 1957 there shall be deducted for each hundred pounds of producer milk which was allocated to Class II pursuant to § 982.46 and which was either used in the production of Cheddar cheese or assigned to such product pursuant to § 982.44 the difference between the Class II price for milk containing four percent butterfat and the price obtained by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin primary markets ("Cheddars" f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the Department during the month."

[F. R. Doc. 57-2536; Filed, Apr. 1, 1957; 8:54 a. m.]

[7 CFR Part 1020]

[Docket No. AO-290]

HANDLING OF APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Wenatchee, Washington, on January 9–10, 1957, after notice thereof published in the FEDERAL REGISTER (21 F. R. 9774), on a proposed marketing agreement and order regulating the handling of apricots grown in designated counties in Washington, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

On the basis of the evidence introduced at the hearing, and the record thereof, the Acting Deputy Administrator, Marketing Services, Agricultural Marketing Service, on March 1, 1957, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F. R. Doc. 57-1688; 22 F. R. 1404). No exception to said recommended decision was filed.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The incurring of expenses and the levying of assessments;

(d) Authority to establish apricot marketing research and development projects;

(e) The method for regulating shipments of apricots grown in the production area;

(f) The granting of exemptions and the establishment of special regulations for apricots handled in certain types of shipments or for certain specified purposes;

(g) The requirement for inspection and certification of apricots handled;

(h) The establishment of reporting requirements for handlers;

(i) The requirement of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(j) Additional terms and conditions as set forth in §§ 1020.62 through 1020.71 and published in FEDERAL REGISTER (21 F. R. 9774) on December 11, 1956, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ 1020.72 through 1020.74, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The major part of the crop of apricots produced in the designated counties of Washington comprising the "production area" is shipped in fresh market channels. The bulk of such production moves into the markets of the Midwestern and Northeastern States. Among the more important volume markets are Minneapolis, St. Paul, St. Louis, Chicago, Kansas City, New York, and Detroit. Smaller volumes, but nonetheless important, are marketed on the West Coast. Canada is the most important export market for Washington apricots.

Four States, other than Washington, produce apricots in commercially significant volume. These States are California, Utah, Colorado, and Idaho. During the 10-year period 1945–54, California alone produced approximately 90 percent of total volume, while Washington produced approximately 7.5 percent. During this same period, however, Washington accounted for 31.5 percent of total fresh apricot shipments, and in 1955 for 37.7 percent of such shipments. Ninety percent or more of the California production is commercially processed. The principal Washington variety, the Moorpark, has not proved satisfactory for commercial processing.

Shipment of fresh Washington apricots takes place in July and August. There is an overlapping of shipments from California and Washington during early July, and during most of July and early August apricots from Utah, Colorado, and Idaho compete in the markets with apricots from Washington. Throughout this period, however, Washington apricots constitute about 75 percent to 80 percent of the total supply. About one-fourth of the Washington movement occurs during the latter part of August after shipment from the other apricot producing States has been completed.

Any handling of Washington apricots in fresh market channels exerts an influence on all other handling of such apricots in fresh form. Sellers of such apricots, as of other commodities, endeavor to transact their business so as to secure the highest possible return for the quantities of apricots they have for sale. In effecting these transactions, the seller continually surveys all accessible markets in order to take advantage of the best opportunity to market the fruit. Markets within the State of Washington provide opportunities to dispose of apricots in the same manner as markets within other States, or for export; and the sale of a quantity of Washington apricots in a market within the State of Washington exerts the same influence on all other sales of such apricots as a like quantity sold in a market within another State.

The principal intrastate markets for Washington apricots are located in the cities of Seattle, Tacoma, and Spokane outside the production area. These markets take approximately 20 percent of the apricots marketed fresh each season. If shipments of apricots to markets outside the State of Washington

were regulated, while those within the State of Washington were unregulated, growers and handlers would attempt to market within the State all the lower quality apricots which could not be shipped under regulation. Because of such large quantity of low quality apricots sold in markets within the State, prices for apricots in such markets would be depressed below those prevailing in markets outside the State.

The existence of a lower price level for apricots marketed within the State of Washington would tend to depress the prices for apricots sold in interstate markets. Buyers generally have ready access to market information; and knowledge of lower prices in one market is used in bargaining for apricots to be shipped into other markets, including those outside the State of Washington. As a case in point, there are business concerns who control retail outlets in Seattle, and also in Minneapolis, Minnesota, and these concerns are well aware of the price situation in both markets. Furthermore, with large quantities of poor quality apricots available for sale in markets within the State of Washington, there would be little opportunity to sell in such markets apricots meeting the requirements of the regulations established. The larger quantity of apricots, which would be required to be sold in interstate markets under such circumstances, would also tend to lower the level of prices in the interstate markets.

Itinerant truckers move substantial quantities of apricots mainly to intrastate markets. However, it is normal practice for such persons to sell apricots in the markets where prices are most favorable. It is more than probable that below-grade shipments destined for the Seattle-Tacoma area or to Spokane would be diverted to Portland, Oregon, or to other markets outside the State if prices were more favorable there than in markets within the State of Washington. In fact, it is a customary practice to ship fruit from the production area to Spokane and reship it from there to Idaho, Montana, or to Canada. Under these circumstances, it would be virtually impossible to effect compliance with regulations governing interstate shipments if shipments to markets within the State were unregulated.

Hence, it is concluded that the movement and sale of Washington apricots, whether to a market within the State of Washington or outside thereof, affect prices of all apricots grown in the production area. Therefore, it is hereby found that all handling of such apricots grown in the production area are either in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce. However, the quantity of apricots handled for consumption within the production area is relatively inconsequential when compared with the total quantity handled; and because of the nearness to the source of supply, it would be administratively impracticable to regulate the handling of apricots for consumption within such area. With this one exception, and except as hereinafter otherwise provided, all handling of apricots grown in the production area should be subject to the authority of the act and of the order.

(2) The production of Washington apricots, though varying considerably from year to year, ranged steadily upward during the 20-year period ending with the 1949 season. During the 5-year periods ending 1934, 1939, 1944, and 1949, average annual production was 5,600, 11,520, 18,080, and 24,900 tons, respectively. In 1950 the trees were severely damaged by cold weather and the crop was only 1,600 tons, and for the 5-year period ending 1954, average annual production was 8,740 tons. By 1955 the orchards had recovered, and 21,000 tons were produced.

Reflecting the wartime demand for food, average on-tree prices per ton for Washington apricots for fresh market in 1943, 1944, and 1945 were $157.00, $95.40, and $96.90, respectively. In 1946, 1947, and 1948, such prices were $64.30, $49.30, and $25.40. In 1949 such price was a minus $8.90 per ton. With the reduction of the crop during the 5-year period ending in 1954, prices increased and prices during such period averaged $88.20 per ton. In 1955 with a crop of 21,000 tons, on-tree returns to growers dropped to $7.00 per ton. This was less than 10 percent of the season average on-tree parity price for Washington apricots.

Some of the recent decline in demand, and consequent difficulty experienced in the marketing of Washington apricots is believed to be due to the post World War II decline in home canning, principally in the Midwest. The principal variety, the Moorpark, has proved to be acceptable for home canning, and for this purpose such apricots were shipped somewhat less mature than would be desirable for eating fresh. With the decline in the demand for apricots for home canning, it is necessary to create increased demand for apricots for fresh consumption. In order to do so it is necessary to place on the market apricots suitable for this purpose.

The importance of the apricot in the economy of the production area was stressed. The economy depends almost entirely on the production and handling of fruits. Pruning, thinning, harvesting, and packing of apricots occur at times when labor and facilities are not being utilized for other fruit crops, and thus the apricot is important to the efficient use of such factors in the total fruit industry.

Prices for apricots generally are high at the beginning of the season, and producers and handlers are anxious to start shipping in order to take advantage of such prices. Under such circumstances, apricots in early shipments often have not been sufficiently mature to give consumers' satisfaction, and it is believed that consumers' dissatisfaction stemming from purchase and consumption of such apricots curtails demand for apricots throughout the remainder of the season. In 1953 the industry was instrumental in having a State maturity law enacted, under which all apricots must move under a permit, issued by the State Inspection Service, certifying that such apricots meet minimum maturity standards. However, it was alleged that this law had not stopped the shipment of immature apricots. No State requirements have been established with respect to uniformity of grade, size, quality, or containers. Handlers who have made a conscientious effort to ship only good quality apricots in an effort to get a fair return for apricots often find that other handlers have shipped apricots of poor grades and smaller sizes and have so depressed the market that fair returns were impossible to obtain. At times, handlers have shipped good quality apricots early in the season while the bulk of the crop was being harvested in the portion of the production area which they serve and have held in storage apricots of less desirable quality and shipped them later to the detriment of the later portions of the production area.

Handlers also have varied the dimensions of containers presumably in order to gain a competitive advantage over others. One of the results of this is that a container with a capacity of 12 pounds net, has displaced, for shipment to distant domestic markets, a 14-pound net container, which is more suitable for packing larger fruit of certain varieties. Under Canadian law the 14-pound container is the only container which may be used in shipping apricots to Canada. Numerous sizes of containers known as "Gypo" containers are used mainly for shipping apricots to nearby markets, including some in Oregon. The difference in dimensions of such containers may be so slight that a smaller container may be substituted for a larger one without customers being aware that it contains 2 or 3 pounds less fruit. The lack of standardized grade, size, quality, and containers has resulted in lack of stability in the marketing of Washington apricots and has tended to alienate buyers and hence to reduce demand and market prices received for Washington apricots.

Prices of Washington apricots and total returns to the growers of such fruit could be augmented by restricting shipments in fresh market channels to apricots of desirable maturity, grade, size, and quality and limiting the containers used in making such shipments. When supplies of apricots are heavy, fruit of inferior grades and qualities, or of undesirable maturity or size, may be sold only at discounts, and, since competition in the marketing of apricots is based to a considerable extent on price, such discount sales tend to depress prices for all apricots being marketed. Restrictions on the shipment of such discounted fruit would, therefore, tend to increase prices for good quality apricots. Moreover, shipments of apricots which are of inferior grade or quality, or of undesirable size or maturity, often do not sell at prices covering even the cash costs of harvesting and marketing. Restrictions on the shipment of such fruit would not only improve the grade, size, and quality of apricots marketed and promote

buyer confidence in Washington apricots, but would also improve the average returns to growers by preventing losses incurred through shipment of undesirable fruit. Moreover, the shipment of very poor quality apricots, including culls, immature fruit, extremely small sizes, and deteriorated fruit is rarely ever in the interest of consumers or producers. Apricots of such poor quality are not a value to the consumer because of poor flavor and excessive waste. Shipment of such apricots results in consumer dissatisfaction and destruction of the reputation of quality for Washington apricots. Even when the season average price is above the parity level it is not in the public interest to ship such poor quality apricots.

Restrictions on the size, capacity, dimensions, and pack of containers used in the marketing of Washington apricots would enable buyers and handlers alike to know the exact quantity of apricots covered by prices quoted and thereby tend to increase trade confidence and stability in the marketing of the fruit.

Therefore, it is concluded that the establishment of the order, providing for the regulation of maturity, grade, size, and quality of shipments of Washington apricots, and for the establishment of uniform containers to be used for such shipments, is necessary to effectuate the declared purposes of the act. Also, the establishment and maintenance in effect of minimum standards of quality and maturity, when prices are above the parity level, will effectuate such orderly marketing of Washington apricots as will be in the public interest. The objective under such order is the tailoring of the supply of apricots available for sale in fresh market channels to the demand in such outlet so that the fruit thus made available to buyers will be packaged uniformly and be of desirable maturity, grade, size, and quality. Such limitations on shipments of Washington apricots should contribute to the establishment of more orderly marketing conditions for such fruit and tend to increase the demand therefor.

(3) The term "apricots" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, refers to all varieties of apricots, as hereinafter defined, classified botanically as Prunus armeniaca. Apricots are readily distinguished from other fruits, and the term has a specific meaning to all producers and handlers of the commodity in the production area and to those who purchase and distribute in the receiving markets apricots grown in the production area.

The term "varieties" should be defined in the order, as hereinafter set forth, since it is proposed to provide authority in the order for issuance of separate regulations for different varieties. The principal varieties of apricots grown in the production area are Moorpark, Tilton, Blenheim, Riland, Perfection, and Phelps. Each variety of apricots is a classification or subdivision of Prunus armeniaca and possesses definitive characteristics which serve to distinguish it. Recognition of different varieties of apricots is common throughout the production area and the distributing trade, and there is little likelihood that one variety would be confused with another.

A definition of the term "production area" should be incorporated into the order as a means of delineating the area within which apricots must be grown for the handling thereof to be subject to regulation. Such term should embrace all of the territory within the boundaries of the Counties of Okanogan, Chelan, Douglas, Grant, Yakima, Benton, and Klickitat within the State of Washington. Such area includes the Wenatchee and Yakima valleys within which practically all of the commercial crop of Washington apricots is produced. The apricots produced for market within this area are of the same varieties and are marketed at approximately the same time and compete with each other in the markets. All the apricots shipped to market from the production area are prepared for market in packing facilities located within such area. There are no apricots produced outside the production area and brought into such area for preparation for market. To exclude any portion of the production area as defined would tend to defeat the purposes of the order, in that apricots from any such excluded portion which do not meet regulations applicable to regulated fruit could then be marketed free from regulations and thereby depress the prices of the regulated apricots grown in the remainder of such area. Moreover, apricots produced in such excluded portion would probably have to be brought into the regulated area for preparation for market and this would lead to confusion and difficulty in enforcing regulations. Hence, it is concluded that the production area as hereinafter defined is the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined as being synonymous with "shipper" and to identify the persons who handle apricots in the manner described and set forth in the definition of "handle," because such persons are to be subject to the order and regulations authorized thereunder. A handler should include any individual, partnership, corporation, association, or any other business unit which handles apricots. Such persons are responsible, among other things, for the grade, size, quality, and maturity of the apricots they place, or cause to be placed, in the current of commerce between the production area and any point outside thereof whether by delivery to transportation agencies or to the consignees or purchasers of the fruit, or which are transported to market or sold; and such persons should therefore be considered as handlers. However, common or contract carriers of apricots they do not own should not be considered as handlers, even though they transport apricots, for the reason that these agencies transport apricots for a monetary consideration and do not have a proprietary interest in the commodity or any control over the grade, size, quality, or maturity thereof.

The definition of the term "handler" should apply to any person, including a producer, when such person performs any handling activities within the scope of the term "handle." It should include not only the first handler, but each succeeding handler who performs any such handling activities, so as to assure that all such handling of apricots will be in accordance with the order and regulations thereunder. With respect to handlers who conduct their businesses other than as individuals (e. g., firms that have sales managers or packinghouse managers), any handing activities engaged in by employees or officers of such handlers should be construed as handling caused by the principal company, as "handler." Hence, the term "handler" would cover the owner of a firm even though such person does not personally negotiate the sale or transport the apricots.

Such term should also include, in addition to the owner and officers, any other individual of a firm handling apricots who, in a supervisory capacity, is directly responsible for, and consequently causes, the sale or transportation of the commodity. Therefore, a handler would mean any person (except a common or contract carrier of apricots owned by another person) who handles apricots or causes apricots to be handled. In other words, the term "handler" should include not only persons who themselves sell or transport apricots but also those persons who, although they do not themselves sell or transport apricots, nevertheless cause their sale or transportation. All persons coming within the meaning of such term should be responsible for complying with the obligations imposed by or pursuant to the order so as to assure that all apricots will be properly handled.

The term "handle" should be defined to identify those activities which it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place or continue apricots in commerce from any point in the production area to any point outside thereof. Handling of apricots under the order would begin after the apricots have been removed from the tree and include each of the successive selling or transporting activities. The performance of any one or more of these activities, such as selling, consigning, delivering, or transporting, by any person either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required to limit such handling of apricots to fruit which conforms to the applicable regulations established under the order.

It is common practice for growers to deliver their apricots to persons having facilities for packing and otherwise preparing the fruit for market. The grower, in such instances, properly relies on the person preparing the apricots for market to see that the fruit which is thereafter

shipped meets all applicable requirements for marketing. Movement within the production area from the orchard to the place within the production area where the apricots will be prepared for market and activity in connection with such preparation should not be covered as handling subject to regulation. These actions, whenever they are performed, are, of necessity, preliminary to the handling, i. e., selling, consigning, delivering, and transporting of apricots. It would unnecessarily complicate the administration of the program to require persons engaged in the preparation of apricots for market to meet the requirements of regulations prior to such preparation. Therefore, such activties should not be included within the definition of handle.

The record shows that some apricots are sold at the orchard and at packinghouses to persons—itinerant truckers and others—who transport the apricots from such points to markets outside the production area. The selling or delivery of apricots to such persons, and the subsequent movement to points outside the production area, whether within or outside the State, are handling transactions. Any person who engages in any such transaction, whether a grower, packinghouse operator, trucker, or otherwise, should therefore be considered as a handler under the order by virtue of such transaction and subject to any rules and regulations pursuant thereto. Each such person should have the responsibility for assuring himself that the apricots he so handles meet all applicable regulations in effect at the time of handling and that the apricots have been inspected and certified as required under the order. Compliance with regulations which are authorized by the order can readily be determined by the person who is grading or preparing the apricots for market. The primary responsibility for determining that apricots in any shipment conform to applicable regulations should rest with the person who places, or causes to be placed, the apricots in the current of commerce between the production area and any point outside thereof. In most cases, such person will be the one who graded, or at least was responsible for grading or preparing such apricots for market. Of course, all subsequent handlers should also have the responsibility for seeing that any maturity, grade, size, quality, and any other regulations pertaining to such apricots are met at the time such persons handle the apricots. A very small quantity of apricots is handled for consumption within the production area. Such handling directly burdens, obstructs, or affects interstate commerce, as hereinbefore noted. However, the quantity is so small, and the difficulty of enforcing regulations for apricots so marketed would be so great, that such handling of apricots should not be regulated. As all handling of apricots, except as indicated herein and except for the handling of apricots specifically exempted from regulation under the act or the order, directly burdens, obstructs, or affects interstate commerce, it is concluded that the handling of all such apricots, with the exceptions hereinbefore noted, should be subject to the order and any regulations issued pursuant thereto.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the Washington Apricot Marketing Committee—the agency which will administer the program locally—are to be maintained. At the present time it is desirable to establish a 12-month period ending March 31 as a fiscal period. Such a period would fix the end of one fiscal period and the beginning of the next at a time of inactivity in the marketing of apricots. This would facilitate fixing the term of office of members and alternates to coincide with such period as it would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year, and would still insure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, it was testified that for reasons not now apparent it may be desirable at some future time to establish a fiscal period other than one ending March 31, and that authority should be included in the order to provide for such establishment subject to approval of the Secretary pursuant to recommendations of the committee. Therefore, it is concluded that such term should be defined as hereinafter set forth to provide this flexibility.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is referred to.

Definitions of "grade" and "size" should be incorporated in the order to provide a basis for expressing grade and size limitations thereunder, and thus to enable persons affected thereby to ascertain the extent and application of grade and size limitations. "Grade" should be defined as any one or more of the established grades of apricots as defined and set forth in (1) "United States Standards for Apricots," issued by the United States Department of Agriculture, effective May 25, 1928, which standards were published in the FEDERAL REGISTER (21 F. R. 9935), or (2) Standards for Apricots issued by the State of Washington, or (3) amendments to any grades set forth in either of such standards, or modifications thereof, or variations based thereon. Such definition would provide the flexibility necessary to cope with the possible variations in apricots due to detrimental effects of weather or other possible hazards affecting the crop. The United States Standards and the Washington State Standards have been used by the Washington apricot industry for a number of years and therefore provide appropriate bases for describing grade limitations.

Sizes of apricots are commonly referred to in the production area by row count, i. e., the number of apricots necessary to pack row-faced across a 10½ inch inside width wooden box or lug. Hence, a 7-row apricot is one having a diameter of 1½ inches measured at right angles to a line drawn from the stem to the blossom end of the fruit. However, it was testified that due to the fact that apricots are shipped other than row-faced in containers, and it is possible to vary the arrangement of the apricots within the row-face of the container, a regulation based on a row-count size would not be as meaningful as one based on minimum diameter. Therefore, it is concluded that the term "size" should be defined in terms of diameter or such other specifications as may be recommended by the committee and approved by the Secretary.

The term "pack" is commonly used throughout the apricot trade and refers to a combination of factors relating to the grade, size, quality, and quantity of apricots in a particular type and size of container and to the arrangement of the apricots within that container. For example, "U. S. No. 1, 6-row, 14-pound faced pack" is considered by the apricot trade as a specific pack. "U. S. No. 1" describes the grade, "6-row" the size, and "14-pound faced," the container, quantity of apricots, and the arrangement of the apricots within the container. Under certain circumstances, it may be desirable to regulate shipments of apricots on the basis of particular grades or sizes, or both, that may be shipped in a specific container or containers and to specify the arrangement of the fruit within the container. Hence, it is concluded that "pack" should be defined as follows: "Pack" means the specific arrangement, size, weight, count, or grade of a quantity of apricots in a particular type and size of container.

The term "grower" should be synonymous with "producer" and should be defined to include, with the exceptions hereinafter noted, any person who is engaged, within the production area, in the production of apricots for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as eligibility to vote for, and to serve as, a grower or alternate grower member on the Washington Apricot Marketing Committee and for other reasons. In this connection, it was testified that in order to preserve the predominant grower character of the committee it would be necessary to require that any grower who handles apricots shall have produced not less than 51 percent of the apricots handled by him during the previous season to be eligible to vote for grower nominees or to serve as a grower member or grower alternate member of the committee. Each business unit (such as a corporation, partnership, or community property arrangement) engaged in the production of apricots for market should, when voting for nominees for membership on the committee, be entitled to only one vote. The term "grower" should, therefore, be defined in accordance with the foregoing.

"District" should be defined as set forth in the order to provide a basis for the nomination and selection of committee members. The districts (i. e., the geographical divisions of the production area as established and as set forth in the order) represent the best basis which could be devised at this time for providing a fair, adequate, and equitable representation on the committee. The provision for redistricting is desirable because it allows the committee and the Secretary to consider, from time to time, whether the basis for representation on the committee should be improved.

"Export" should be defined in the order as any shipment of apricots beyond the boundaries of the continental United States. Shipments of apricots to points outside of the continental United States may be of different grades, sizes or qualities than those shipped to domestic markets. This results from different market demands as between domestic and other markets. Different or special regulations, or even no regulations, could, therefore, be made effective when warranted, with respect to such shipments out of the United States.

The term "container" should be defined in the order to mean a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging, or handling of apricots. The definition of the term is needed to serve as a basis for differentiation among the various shipping receptacles, in which apricots are sold or moved to market, for which different regulations could be applicable.

(b) It is necessary to establish an agency to administer the order locally under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Washington Apricot Marketing Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 12 members, of whom 8 should represent producers and 4 should represent handlers. Alternate members should be provided to act in the place and stead of the members. Such a committee would be large enough to provide representation to all segments of the industry. At the same time, it is of such size that it can operate effectively and efficiently. The foregoing division of the members between producers and handlers would provide suitable producer representation and handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee by providing the handler experience and marketing information necessary to the development of economically sound regulation of apricot shipments. Each handler member should be either a handler, an officer, or an employee of a handler, as handlers often are corporations and would be precluded from having representation on the committee unless persons were authorized to serve as members of the committee. There are also growers in the production area which are corporations and their officers and employees should be similarly eligible for membership on the committee. Two handler members and 4 grower members should represent each of the two districts. Although volume of production of apricots in District 2 is somewhat greater than in District 1, equal representation on State industry committee is usually provided. Provision to reapportion membership on the committee among districts should be provided so that, if it becomes apparent that through shifts in production, reestablishment of districts, or other reasons such representation is inappropriate, the Secretary may, upon recommendation of the committee, make such reapportionment as he finds necessary.

Each producer or handler member of the committee, and his alternate, should be a producer or handler (or officer or employee of a corporate grower or handler), as the case may be, of apricots in the district for which selected. A person with such qualifications should be intimately acquainted with the problems of producing or marketing apricots grown in such district and may be expected to present accurately the problems incident to the production or handling of apricots grown in that district. The main interest of grower members and alternates should be growing. A grower who also is a handler of apricots should have grown not less than 51 percent of the apricots handled by him during the previous season to be eligible to serve as a grower member or a grower alternate member of the committee. Such provision is necessary to assure that the interests of the majority of the committee are primarily the growing of apricots.

The term of office of committee members and alternates under the proposed program should be for two years beginning on the first day of April and continuing until March 31. This will establish an orderly procedure for changing the membership of the committee. The term of office should be for two years so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service assisting the Secretary to carry out the declared policy of the act. The beginning of each term of office will occur during a period prior to the commencement of a marketing season and hence allow adequate time for the committee to organize and start operating.

Provision is made in the order for staggered terms of office of committee members and alternates. Under this provision one-half of the committee in office on March 31 of each year will continue in office until the next year. The establishment of such staggered terms will provide for more efficient administration of the program, in that members and alternates constituting the new half of the committee membership will benefit from the guidance of experienced members who carry over. The experienced members will help insure continuity of the policies and procedures relating to the administration of the proposed order; and continuity should contribute materially to the successful administration of the marketing program. However, the terms of office of one-half of the initial committee members and alternates should be from the time of appointment until the following March 31 and of the other half from the time of appointment until the second following March 31. Committee members and alternates should serve during the term of office for which selected, and until their successors are selected and have qualified to insure continuity of committee operations.

A procedure for the election by growers and handlers of nominees for membership on the committee should be prescribed in the order to assist the Secretary in his selection of members and alternate members of the committee. It is recognized that the Secretary is vested with authority under the act to select the committee members; and the nomination of prospective members and alternate members at meetings of growers and handlers in the respective districts is a practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee.

Nomination meetings for the purpose of electing nominees for members of the committee and their alternates should be held or caused to be held by the committee on or before March 1 of each year. Such date is approximately 4 weeks prior to the end of the fiscal period. By having such nomination meetings not later than March 1 each year, the committee will be in a position to prepare and submit nomination lists to the Secretary in time for the Secretary to select the members and alternate members of the new committee prior to the expiration of the terms of office of the existing committee members. The notice of hearing proposed that nomination meetings be held not later than March 15 of each year. However, it was testified that such nomination meetings should be held in suffi-

cient time to assure that the names of nominees would be before the Secretary in time for him to make his selection of members and alternates prior to the beginning of the new term of office, beginning on April 1. Inasmuch as March 15 would allow approximately only 2 weeks for the committee to prepare and submit nomination lists and for the Secretary to review such nominations and make his selection, it is concluded that such nomination meetings should be held not later than March 1.

As the administrative committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. The Secretary may appropriately select the initial grower and handler committee members and alternates from nominations which may be made by growers and handlers, respectively, or appropriate groups thereof, or from other eligible persons; and the order should so provide. In order that the initial membership of the committee may be selected as soon as possible after the approval of the program, it should be required that such nominations be submitted not later than the effective date thereof.

The order should provide that only growers who are present at the nomination meetings, or corporate growers who are represented at such meetings by duly authorized agents, may participate in designating nominees for grower members and alternates, and only handlers present at nomination meetings or corporate handlers represented at such meetings by duly authorized agents may participate in the nomination of handler members and alternates. It should be further provided that any grower who handles apricots may not participate in the selection of grower members and alternates if he did not produce at least 51 percent of the apricots handled by him during the previous season. These restrictions are necessary in order to insure that the interests of each group are properly safeguarded and that the nominee truly reflects the views of the group which he is selected to represent. With respect to the restriction on "grower-handlers" it was testified that such restriction was necessary in order to preserve the predominant grower character of the committee.

It was testified that each grower and handler should have a similar and equitable voice in the election of nominees. Hence, if a person is qualified to vote either as a grower or a handler, he may select the group with which he wishes to participate. Such persons may not vote both as a grower and as a handler because this would enable him to participate in nominations to a greater degree than persons who are growers only or handlers only. Also, each grower and handler should be limited to one vote on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates regardless of the size of any such person's operation or the number of districts in which he produces or handles apricots. If a grower or handler could cast more than one vote by reason of operating in more than one district, such grower or handler would have an advantage in selecting nominees over growers or handlers operating in only one district. Also, if more than one vote was permitted, there is a possibility that large growers or handlers could dominate the elections by means of their partners, agents, subsidiaries, affiliates, and representatives, and nominate growers and handlers not favored by a majority of growers or of handlers. An eligible grower's or handler's privilege of casting only one vote should be construed to mean that one vote may be cast for each applicable position to be filled.

A grower who produces apricots in both districts should be permitted to select the district in which he will vote. He will thus be able to vote for nominees where he believes his best interest lies. Similarly, a handler, who handles apricots both in District 1 and District 2 of the production area, should be permitted to select either one of such districts in which to vote for nominees.

In order that there will be an administrative agency in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternates without regard to nomination if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed promptly after the notification of appointment so that the composition of the committee will not be delayed unduly.

Provisions should be made as set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The committee should be given those specific powers which are set forth in section 8c (7) (C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, in that it may develop that there are other duties which the committee may need to perform.

With respect to the provision set forth in § 1020.31 (m) providing for redistricting and reapportionment of membership on the committee, such provision is necessary to enable the committee and the Secretary to consider from time to time whether the basis for representation has changed or could be improved and how such improvement should be made. The division of the production area into the two districts set forth in the order is a logical one at the present time from the standpoint of production, and this is the division commonly made by growers, handlers, and State agencies. However, shifts or other changes which may take place in the future due to increased or decreased production cannot be foreseen. Additional land suitable for apricot production is being made available within the production area through irrigation. Decreased acreage may result from damage caused by weather hazards. Therefore it is desirable to provide flexibility of operation so that if it should be in the best interests of the administration of the order to change the boundaries of districts, change the number of districts, or reapportion the representation on the committee among districts, the committee may so recommend, and the Secretary may take such action.

At least 8 members of the committee, or alternates acting for members, should be present at any meeting in order for the committee to make any decisions; and all decisions of the committee should require a minimum of 7 concurring votes, except when two-thirds of the number of members present is greater than 7, such requirement should be two-thirds of the number of members present. These provisions will assure that all actions of the committee will be considered by at least two-thirds of its membership and approved by a majority of the committee. The order should provide that in the event neither member nor his alternate is unable to attend a meeting, such member or the committee may designate any other alternate member from the same district and group who is not acting as a member to serve in such member's place and stead.

In addition to meetings held where the committee is assembled together in one place, the committee should be authorized to hold simultaneous meetings of its members assembled at two or more designated places wherein provision has been made for communication between all such groups and loud speaker receivers made available so that each member may participate in the discussion and other actions the same as if the committee were assembled in one place. This should encourage attendance at meetings and may possibly facilitate some savings in expense through reduced travel time and distance. Such meeting should be considered as an assembled meeting. The committee should be authorized to vote by telephone, telegraph, or other means of communication when a matter to be considered is so routine that it would

be unreasonable to call an assembled meeting or when rapid action is necessary because of an emergency. Any votes cast in this fashion should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person.

It is appropriate that the members and alternates of the committee may receive compensation for the time spent in attending committee meetings. The order authorizes a maximum of $10.00 per day for this purpose, since the time so spent is usually at financial sacrifice to their personal businesses. While the payment of an amount not to exceed $10.00 per day will not in most cases fully compensate for the time such members and alternates spend away from their personal businesses, there are producers and handlers in the production area who are willing to represent the industry by serving on the committee regardless of the personal sacrifice involved. The order should also provide for reimbursement of actual out-of-pocket reasonable expenses incurred on committee business since it would be unfair to request the members and alternates to pay for such expenses incurred in the interest of all apricot growers and handlers in the production area.

In order for an alternate to adequately represent his district at any committee meeting in place of an absent member, it may be desirable that he should have attended previous meetings along with the member, so as to have a full understanding of all background discussions leading up to action that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members could be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often important for the committee to obtain as wide a representation as practical of producer and handler attitudes toward a proposed regulation or other matter. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members, when a situation so warrants. The same compensation and reimbursement that are available to members should also be made available to alternate members when they are so requested and attend such meetings as alternates.

Provision should be made in the order whereby each committee will prepare an annual report prior to the end of each fiscal period. Such reports would provide committee members, the industry, and the Secretary with a record of the annual operations of the program and would provide a means for evaluation of the program and the need for any changes therein.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal period for its maintenance and functioning and for such other purposes as the Secretary May, pursuant to the provisions of the order, determine to be appropriate. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by an administrative agency, such as the Washington Apricot Marketing Committee, and requires that each marketing program of this nature contain provisions requiring handlers to pay pro rata the necessary expenses. Moreover, in order to assure the continuance of the committee, the payment of assessments should be required even if particular provisions of the order are suspended or become inoperative.

Each handler should pay to the committee upon demand with respect to all apricots handled by him as the first handler thereof his pro rata share of such expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal period. Each handler's share of such expenses should be equal to the ratio between the total quantity of apricots handled by him as the first handler thereof during the applicable fiscal period and the total quantity of apricots so handled by all handlers during the same fiscal period. In this way, payments by handlers of assessments would be proportionate to the respective quantities of apricots handled by each handler and assessments would be levied on the same apricots only once.

In order to provide funds for the administration of this program prior to the time assessment income becomes available during the fiscal period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders, and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are being made in an appreciable amount. There was no objection offered at the hearing to indicate that any person was opposed to the proposal for the committee to borrow a limited sum of money each fiscal period. During years of normal growing conditions, revenue available to the committee from assessments would provide the means for the repayment of any such loan. In addition, as hereinafter set forth, provision should be made for increasing the rate of assessment in the event it should develop that due to some unforeseen circumstances the assessment income under the then prevailing rate is not sufficient to cover the expenses incurred.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the proposed order for such period. Each such budget should be presented to the Secretary with an analysis of its components and explanation thereof in the form of a report on such budget. It is desirable that the committee should recommend a rate of assessment to the Secretary which should be designed to bring in during each fiscal period sufficient income to cover authorized expenses incured by the committee.

The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a fair and equitable unit basis, such as a container, ton, or other quantity measurement.

The Secretary should have the authority, at any time during a fiscal period, or thereafter, to increase the rate of assessment when necessary to obtain sufficent funds to cover any later finding by the Secretary relative to the expenses of the committee applicable to such period. Since the act requires that administrative expenses shall be paid by all handlers pro rata, it is necessary that any increased rate apply retroactively against all apricots handled during the particular fiscal period.

Handlers should be entitled to a proportionate refund of any excess assessments which remain at the end of a fiscal period. Such refund should be credited to each such handler against the operations of the following fiscal period so as to provide the committee with operating funds prior to the start of the ensuing shipping season; but, if a handler should demand payment of any such credit, the proportionate refund should be paid to him.

However, good business practice requires that any such refund may be applied by the committee first to any outstanding obligations due the committee from any person who has paid in excess of his pro rata share of expenses.

The notice of hearing set forth a proposal to authorize the Secretary, upon recommendation of the committee, to establish a reserve fund from excess assessments remaining at the end of a fiscal period. Such fund would be carried over into following periods and used upon termination of the order to liquidate the affairs of the committee. However, it was testified at the hearing that in view of the weather hazards to which production of apricots is subject, as well as the fact that a large proportion of the committee's expenses in any fiscal period will be incurred prior to the time assessment income is available to cover such expense, that the authority for establishment and use of such a reserve fund should be broadened to cover expenses during deficit collection periods such as the pre-season shipping period and during periods of crop failure or near crop failure.

In most years shipment of apricots begins about the middle of July and is completed by the end of August. The fiscal period starts on April 1, and, therefore, the committee must operate during April, May, June, and the first half of July with no current assessment income. The period just prior to the shipping season will be the period of greatest

activity as the committee will be surveying the crop and marketing situation, holding meetings to develop a marketing policy and to develop recommendations for regulations. This means that in all probability at least one-half the committee's expenses will ordinarily be incurred before any current fiscal period income is collected.

An operating reserve is an important instrument for the continued effective operation of the order over a period of years. The production area is very susceptible to hail storms just prior to and during the harvesting period, and to frost damage at the time of bloom and fruit set. Severe freezes during the winter often damage trees and reduce the crop in succeeding years. The assessment rates under the program are set at the beginning of the season for a crop of an estimated volume of shipments. Should crop failure or partial crop failure reduce the crop so that assessment income falls below expenses, it would be necessary for handlers in light of the reduced crop to cover the deficit. When consignee handlers have already made returns to growers, it would be very difficult for them to obtain from such growers the additional funds required to meet the increase in assessment that would be necessary. It would also constitute an extra burden on the industry to increase the assessment rate after disasters such as these have occurred.

Because of the hazards incident to the production of apricots, and the difficulties thus expected to be encountered in financing operations of the program during some years, it would be desirable to establish an operating reserve for use during any such year. Evidence presented at the hearing was to the effect that nearly all of the production of apricots is marketed year after year by the same handlers and that it would be equitable to all handlers, and far less burdensome to them, to contribute to the establishment of such an operating reserve during years of normal production rather than to be required to pay a high rate of assessment occasioned by a deficit during a year when the crop is materially reduced. It was testified that the proposed reserve fund should be built up to the desirable amount as rapidly as possible, since a material reduction of the crop could occur at any time. Discretion should be used, however, so as not to impose excessively high assessments. It was indicated that it would be appropriate, and in keeping with the desires of the industry, to include in the annual budget a specific amount for the reserve fund as well as to use any other excess assessment funds available at the end of a fiscal period for this purpose. In order that such reserve funds not be accumulated beyond a reasonable amount, it was proposed that a limit of approximately one fiscal period's expense be provided. It was shown that such an amount should be sufficient to cover any foreseeable need since some income from assessment may be expected during any year. After the reserve has been built up to that amount, excess assessment income should thereafter be returned to the handlers entitled to refunds in accordance with the provisions of the order. However, in keeping with the need for the reserve fund, whenever any portion of it is used, the full amount withdrawn should be returned to the reserve as soon as assessment income is available for this purpose.

The reserve fund should be used, with the approval of the Secretary, to cover costs of liquidation of the program in the event the order is terminated, as well as to cover necessary operational costs, such as for salaries and other necessary expenses, during any period when the order, or any of its provisions, should be suspended. It is possible, of course, that the program may be terminated at the end of a fiscal period, or during a year when the production of apricots is relatively light. In such circumstances, it would be burdensome to handlers to require payment of an assessment to cover the liquidation costs. All handlers receive benefits from the program's operation; and, even if a handler ceases handling apricots before the full time of its operation has expired, it would be appropriate and equitable for such handler to share in the expense of liquidation. Should the order provisions be suspended, it is likely such suspension would occur during a period when apricot production has been seriously curtailed. It would seem reasonable and proper, therefore, to use the reserve funds to defray any expense of liquidation or any necessary cost of operation during a period of suspension. It is anticipated, of course, that the committee will endeavor to minimize costs in this regard as far as reasonably practicable consistent with the efficient performance of its responsibilities.

Upon termination of the order, any funds in the reserve which are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. It is apparent, from the evidence of record, that it may not be possible to make an exact distribution of any such funds. Should the order be terminated after many years of operation, and there have been several withdrawals and redeposits in the reserve, the precise equities of handlers may be difficult to ascertain and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal the monies to be distributed. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances. In view of the foregoing, it is, therefore, concluded that authority should be provided, as hereinafter set forth, to permit the establishment and use of a reserve fund in the manner heretofore described.

Funds received by the committee pursuant to the levying of assesments should be used solely for the purposes of the order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. The committee should provide the Secretary with periodic reports at appropriate times, such as at the end of each marketing season or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the committee's activities and operations. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee, should be required to account for all receipts and disbursements, funds, property, and records for which they are responsible, should the Secretary at any time ask for such an accounting. Also, whenever any person ceases to be a member or alternate of the committee, he should similarly be required to account for all funds, property, and other committee assets for which he is responsible and to deliver such funds, property, and other assets to such successor as the Secretary may designate. Such person should also be required to execute assignments and such other instruments which may be appropriate to vest in the successor the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

(d) The order should provide, as hereinafter set forth, authority for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of apricots.

Through the medium of research investigation, the committee should be able to assemble and evaluate data on growing, harvesting, shipping, marketing, and other factors with respect to apricots which would be of value in determining what regulations should be established, in accordance with the act and the order, for the benefit of the apricot industry in the production area. As the committee becomes more aware of the value and need for marketing research and development, other projects will undoubtedly be initiated, the need for which may not have been foreseen during the course of the hearing.

The committee should be empowered to engage in such projects (except advertising and sales and trade promotion projects which are not permitted by the act), to spend assessments funds for them, and to consult and cooperate with appropriate agencies with regard to their establishment. The committee may be limited by the lack of facilities and trained technicians in carrying out any such projects; and it should be authorized to enter into contracts for their development with qualified agencies such as State universities, and public and private agencies. Prior to engaging in any such activities, the committee should, of course, submit to the Secretary for his approval the plans for each project. Such plans should set forth the details, including the cost and the objectives to be accomplished, so as to insure, among other things, that the projects are within the purview of the act. The cost of any such project should be included in the budget for approval, and such cost should be defrayed by the use of assessment funds as authorized by the act.

(e) The declared policy of the act is to establish and maintain such orderly

marketing conditions for apricots, among other commodities, and will tend to establish parity prices therefor, and to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirement as will be in the public interest. The regulation of apricot shipments by maturity, grade, size, or quality, or any combination thereof, as authorized in the order, provides a means of carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, and prior to recommending regulation of apricot shipments, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers of apricots. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the committee's plans for regulation and the basis therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory actions are being considered, since it would provide basic information necessary to the evaluation of such regulation.

In preparing its marketing policy, the committee should give consideration to the supply and demand factors, hereinafter set forth in the order, affecting marketing conditions for apricots since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The committee should be permitted to revise its marketing policy so as to give appropriate recognition to the latest known conditions when changes in such conditions since the beginning of the season are sufficiently marked to warrant modification of such policy. Such action is necessary if the marketing policy is to appropriately reflect the probable regulatory proposals of the committee and be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

The committee should, as the local administrative agency under the order, be authorized to recommend such maturity, grade, size, and quality regulations, as well as any other regulations and amendments thereto authorized by the order, as will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and increased growers' returns for apricots. The committee should, therefore, have authority to recommend such regulations as are authorized by the order whenever such regulations will, in the judgment of the committee, tend to promote more orderly marketing conditions and effectuate the declared policy of the act.

When conditions change so that the then current regulations do not appear to the committee to be carrying out the declared policy of the act, the committee should have the authority to recommend the amendment, modification, suspension, or termination of such regulations, as the situation warrants.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to issue various grade, size, quality, and other appropriate regulations which tend to improve growers' returns and to establish more orderly marketing conditions for apricots. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, or amendments or modifications thereof, as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy, he should have authority to suspend or terminate the regulation, in accordance with the requirements of the act.

The maturity, grade, size, and quality of apricots which are shipped at any particular time have a direct effect on returns to growers. It is a fact that poorer grades, and less desirable sizes, of apricots marketed return lower prices than do better grades and sizes. A restriction, under the order, of the shipment of apricots of low grade should result in higher returns for the better grades marketed by eliminating the price depressing effect of poor quality apricots.

Evidence presented at the hearing shows that handlers often have shipped in fresh fruit channels immature apricots and apricots of poor grade and quality and of undesirable size. Such apricots may be sold only at discounts, and the returns from such sales often do not cover the cash costs of harvesting and marketing. In addition, such sales have tended to depress the prices for the entire crop, for the particular year, below the level which otherwise would have existed if only apricots of suitable maturity, grade, size, and quality, considering the supply and demand conditions for such fruit, had been available in the markets.

The demand for particular grades, sizes, and qualities of apricots varies depending upon the volume of supplies available, the grade, size, and quality composition of such supplies, the availability of competing commodities, and other factors such as the trend and level of consumer income. The supply conditions for apricots are subject to substantial changes during a particular season as the result of weather conditions affecting the volume and quality of the crop.

The grade, size, and quality composition of the apricot crop, and the volume of the available supply for the season as a whole and for any particular period during the season, are important factors which must be considered in establishing regulations. There is generally a sufficient volume of apricots harvested in the production area so that the shipment of only the better grades, sizes, and qualities of apricots to fresh market could fill market demands. Proper maturity is an important factor determining consumer acceptance. Prices for apricots in the production area generally start each season at a high level. This is usually followed by a rapid decline. It was testified that haste to take advantage of high prices early in the season had frequently caused the shipment of immature, excessively small, and poor quality apricots which had resulted in dissatisfaction of consumers; and that such consumer dissatisfaction has been reflected in reduced demand and lowered returns to growers. Therefore, the order should provide for the establishment by the Secretary of regulations by maturity, grade, size, quality, or combinations thereof, based upon limitations recommended by the committee or other available information; and such regulations should cover such period or periods as it is determined is warranted by the anticipated supply and demand conditions. In making its recommendations for such regulations, the committee should consider the heretofore enumerated supply and demand factors. The committee, because of the knowledge and experience of its members, will be well qualified to evaluate such factors and to develop economically sound and practical recommendations for regulations and to advise the Secretary with respect to the supply and demand conditions under which the apricot crop will be marketed.

Several different varieties of apricots are grown in the production area. Principal varieties are the Moorpark, Tilton, Blenheim, Riland, Perfection, and Phelps. Each variety of apricots has certain characteristics which serve to distinguish it from other varieties. The differences in characteristics, such as shape, size, color, and maturing characteristics, may make it undesirable to apply the same regulations to all varieties in that under certain circumstances a given regulation may eliminate an excessive proportion of certain varieties from the market. Also, it was testified that differences in demand exist for certain varieties which may make it desirable to recognize such differences in the establishment of regulations. The order should, therefore, provide authority for the issuance of different regulations for different varieties.

The evidence in the record shows that the most practical basis for issuing regulations covering any portion of the production area, other than the entire production area, would be on a district basis. District 1, the Wenatchee area, and District 2, the Yakima area, are separated by a range of mountains, and the centers—i. e., the cities of Wenatchee and Yakima—of the two areas are about 125 miles apart. Apricots produced in each of the districts are prepared for market in the district where produced. Weather conditions vary between the two areas, and detrimental weather may adversely affect the apricot crop in one district while the crop in the other district may not be so affected. Because of these cir-

cumstances, and in order to provide equity among growers and handlers, authority should be provided in the order to permit establishment of different regulations in different districts of the production area. It was stated in the notice of hearing and proposed at the hearing that authority should be included to regulate differently for any or all portions of the production area. It was pointed out, however, that such regulations, if established, would be most difficult to enforce, and the primary example given of the need for such regulation was to provide relief for hail damage. Since only those persons who have fruit affected by such damage would have any of such fruit, a regulation could be issued providing increased hail damage tolerance for an entire district even though only portions of such district were affected. Hence, it is concluded that authority to regulate by districts would permit the establishment of such different regulations as are likely to be necessary with respect to apricots produced in different portions of the production area, and such regulations would be more practical from an enforcement standpoint.

It is important that the order provide authority for the committee to recommend and the Secretary to fix the size, weight, capacity, dimensions, or pack of the containers which may be used in the packaging or handling of apricots. Some of the containers used in the shipment of apricots are 12- and 14-pound wooden boxes or lugs, with inside dimensions 10½ x 3⅜ x 15 inches and 10½ x 4⅛ x 15 inches, respectively; a four-basket crate with inside dimensions of 16 x 4¾ x 16 inches holding 22 to 24 pounds of fruit net; and a 28-pound lug with inside dimensions 11½ x 7 x 17⅞ inches. The trend in container development has been to smaller and smaller containers. The 12-pound container developed as a variation of the 14-pound container, and a host of containers has developed as variations of the 28-pound lug. Such containers, commonly known in the apricot trade as "Gypo" containers, presumably developed in an attempt to gain a competitive advantage, cause considerable confusion in the buying and selling of apricots. The multiplicity of such containers, and the fact that in many instances they vary so slightly from each other in size and capacity that customers do not realize that the apparent price advantage for a seemingly identical container merely reflects the smaller quantity of fruit, result in disorderly marketing conditions. Standardization of containers to those most suitable for the packing and handling of apricots, and prescribing the use of containers of sizes and capacities which can readily be distinguished from each other, would tend to establish more orderly marketing conditions and increase growers' returns.

The exercise of the authority to regulate containers, however, should not be used to close the door on experimenting with new containers or to prevent the commercial use of any new or superior containers which may be developed.

The order also should contain authority to regulate the packs of containers. This would assist the apricot industry in the production area in its merchandising efforts to provide the most acceptable packs to enhance trade reputation. Neither the United States grades nor the Washington State grades make any requirement with respect to uniformity of size within containers unless the numerical count is used to describe the apricots in a container. Apricots are generally not sold by numerical count. Most of the apricots for distant shipment are packed row-faced in 12-pound lugs. The number of rows imply the size of apricots, but in the absence of any minimum size or pack requirement there is no guarantee of uniformity of size or pack. Loose packs are generally unlidded containers of apricots of random sizes, which in the absence of requirements as to uniformity of contents, are difficult to describe, cause confusion, and contribute to disorderly marketing conditions. It may be necessary to limit the shipment of apricots to export markets to grades, sizes, packs, or containers which are different from those permitted to be shipped to the domestic market. For example, Canada specifies the containers in which apricots must be packed to be admitted into that country. Moreover, it was testified that the export market has sometimes accepted apricots of sizes which, at the time, it was not profitable to ship to domestic markets.

Under certain circumstances it may be desirable to regulate shipments of apricots differently for containers of different capacities on the basis of the particular grades and sizes which may be packed in such containers. Authority for such flexibility in regulations, included in the order, would tend to effectuate the declared policy of the act.

It is not in the public interest to cease regulation when the season average price of apricots exceeds parity. The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity, in terms of grades or sizes, or both, and such grading and inspection requirements, during any and all periods when the season average price for apricots may be above parity, as well effectuate such orderly marketing of apricots as will be in the public interest. Some apricots do not give consumer satisfaction regardless of the price level. Immature apricots, deteriorated apricots, and apricots of very small sizes are examples of the type of fruit that is wasteful and does not represent a value to the consumer and should not be shipped.

The shipment of insufficiently mature apricots or fruit lacking in the quality necessary to assure delivery in satisfactory condition would cause an adverse buyer reaction and would tend to demoralize the market for later shipments of such fruit. Such undesirable fruit has been marketed in the past and undoubtedly would again be marketed in the absence of regulation when the season average price is above parity. Hence, the discontinuance of regulations during season when the average price exceeds parity could adversely affect consumers and also result in dissipation of all benefits from the prior operation of the program.

Adverse growing conditions and weather factors may cause some fruit to develop abnormally, or so affect the quality that it would not be in the public interest to permit its shipment. The possible development depends on the conditions in the particular season. It is necessary, therefore, that the provisions of the order contain the flexibility needed to reflect such conditions. Hence, the specific minimum standards of quality and maturity that may be made applicable during a particular year should be established by the Secretary upon the basis of the recommendations of the committee, made after review of the existing conditions that year, or other available information.

(f) The order should provide for the exemption from its provisions of such handling of apricots which it is not necessary to regulate in order to effectuate the declared purposes of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to the provisions of the program.

Apricots which are handled for consumption by charitable institutions, for distribution by relief agencies, or for commercial processing into products have little influence on the level of prices for apricots sold in the domestic and export markets. Hence, apricots handled for such purposes should be exempted from compliance with the regulations issued under the order.

In addition, provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of apricots, in such specified small quantities, or types of shipments, or shipments made for such specified purposes as it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the exemption of such handling as may be determined necessary to facilitate the conduct of research, and handling which is found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It would be impractical to set forth these exemptions in detail in the order, because to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of apricots in the production area. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments, or shipments made for specified purposes, should be exempted from regulation, inspection, and assessments and the period during which such exemptions should be in effect.

The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. Hence, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as are necessary to prevent apricots handled for any of the exempted purposes from entering into regulated channels of trade and thereby tend to defeat the objective of the program. For

example, should it be found that a portion of the apricots moving to commercial processors was being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such apricots do not have to comply with grade, size, quality, and other requirements. These procedures might include such requirements as filing applications for authorization to move apricots in exempted channels and certification by the receiver that such apricots would be used only for the purpose indicated, if it is found that such requirements are necessary to the effective enforcement of the program regulations.

(g) Provision should be made in the order requiring all apricots handled, during any period when handling limitations are effective, to be inspected by the Federal-State Inspection Service and certified as meeting the requirements of the applicable regulation. Inspection and certification of all apricots handled during periods of regulation are essential to the effective supervision of the regulations. Evidence of compliance with regulations issued under the program can be ascertained only through inspection and certification of all apricots handled during the effective period of such regulations. As the handler of apricots is the person responsible for compliance with such regulations, it is reasonable and necessary to require handlers to submit each lot of apricots handled for inspection and certification and to file a copy of the certificate of inspection with the committee. It was testified that handlers are familiar with the Federal-State Inspection Service and the certification of apricots in the production area, and the use of such inspection agency under this program is desired by the industry.

Responsibility for obtaining inspection and certification should fall on each person who handles apricots. In this way, not only will the handler who first ships or handles apricots be required to obtain inspection and certification thereof, but also no subsequent handler may handle apricots unless a properly issued inspection certificate, valid pursuant to the terms of the order and applicable regulations thereunder, applies to the shipment. Each handler must bear responsibility for determining that each of his shipments is so inspected and certified.

In instances where any lot of apricots previously inspected is regarded, resorted, repackaged, or in any other way subjected to further preparation for market, such apricots should be required to be inspected following such preparation, and certified as meeting the requirements of the applicable regulations before such apricots are handled, since the identity of the lot is lost in such preparation and the validity of the prior inspection certificate and the information shown thereon destroyed.

(h) The committee should have the authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information as may be needed to perform such agency's functions under the order. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden. Moreover, since handlers are the only persons subject to regulation under the program, they are the only persons who could be required to furnish such information. It was testified at the hearing that is was anticipated that most of the information needed by the committee to carry out its functions could be obtained from the required inspection certificates.

However, it was pointed out that it is difficult to anticipate every type or report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the committee should have the authority to request with approval of the Secretary, reports and information as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

The Secretary should retain the right to approve, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports. Any reports and records submitted for committee use by handlers should remain under protective classification and be disclosed to none other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the release of information with respect to apricot shipments may be helpful to the committee and the industry generally in planning for operations under the order during the marketing season. However, none of such reported information may be released other than on a composite basis, and no such release of information should disclose either the identity of handlers or their operations. This is necessary to prevent the disclosure of information which may affect detrimentally the trade or financial position, or the business operations of individual handlers.

Since it is possible that a question could arise with respect to compliance, handlers should be required to maintain for each fiscal period complete records on their receipts, handling, and dispositions of apricots. Such records should be retained for not less than two succeeding years.

(i) Except as provided in the order, no handler should be permitted to handle apricots, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle apricots except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(j) The provisions of §§ 1020.62 through 1020.71, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 1020.72 through 1020.74, as hereinafter set forth, are also included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section number and heading, are as follows: § 1020.62 *Right of the secretary;* § 1020.63 *Effective time;* § 1020.64 *Termination;* § 1020.65 *Proceedings after termination;* § 1020.66 *Effect of termination or amendment;* § 1020.67 *Duration of immunities;* § 1020.68 *Agents;* § 1020.69 *Derogation;* § 1020.70 *Personal liability;* and § 1020.71 *Separability.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § 1020.72 *Counterparts;* § 1020.73 *Additional parties;* and § 1020.74 *Order with marketing agreement.*

Rulings on proposed findings and conclusions. January 17, 1957, was set by the Presiding Officer at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No such brief was filed.

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

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

(2) The said marketing agreement and order regulate the handling of apricots grown in the production area in same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of apricots grown in the production area; and

(5) All handling of apricots grown in the production area as defined in said marketing agreement and order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Apricots Grown in Designated Counties in Washington" and "Order Regulating the Handling of Apricots Grown in Designated Counties in Washington," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid marketing agreement and order shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders, have been met.

It is hereby ordered, That all of this decision, except the annexed agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement are identical with those contained in the annexed order which will be published with this decision.

Dated: March 28, 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Regulating the Handling of Apricots Grown in Designated Counties in Washington

AUTHORITY: §§ 1020.0 to 1020.71 issued under 48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047.

§ 1020.0 *Findings and determinations—(a) Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and the applicable rules of practice and procedure, as amended, effective thereunder (7 CFR Part 900), a public hearing was held at Wenatchee, Washington, January 9–10, 1957, upon a proposed marketing agreement and a proposed marketing order regulating the handling of apricots grown in designated counties in Washington. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

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

(2) This order regulates the handling of apricots grown in the production area in same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) This order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) This order prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of apricots grown in the production area; and

(5) All handling of apricots grown in the production area as defined in the order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, the handling of apricots grown in the said production area shall be in conformity to, and in compliance with, the terms and conditions of this order; and such terms and conditions are as follows:

DEFINITIONS

§ 1020.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1020.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

§ 1020.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 1020.4 *Production area.* "Production area" means all of the territory included within the Counties of Okanogan, Chelan, Douglas, Grant, Yakima, Benton, and Klickitat within the State of Washington.

§ 1020.5 *Apricots.* "Apricots" means all varities of apricots, grown in the production area, classified botanically as Prunus armeniaca.

§ 1020.6 *Varieties.* "Varieties" means and includes all classifications or subdivisions of Prunus armeniaca.

§ 1020.7 *Fiscal period.* "Fiscal period" is synonymous with fiscal year and means the 12-month period ending on March 31 of each year or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

§ 1020.8 *Committee.* "Committee" means the Washington Apricot Marketing Committee established pursuant to § 1020.20.

§ 1020.9 *Grade.* "Grade" means any one of the officially established grades of apricots as defined and set forth in:

(a) United States Standards for Apricots (21 F. R. 9935) or amendments thereto, or modifications thereof, or variations based thereon;

(b) Standards for apricots issued by the State of Washington or amendments thereto, or modifications thereof, or variations based thereon.

§ 1020.10 *Size.* "Size" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end, or such other specification as may be established by the committee with the approval of the Secretary.

§ 1020.11 *Grower.* "Grower" is synonymous with producer and means any person who produces apricots for market and who has a proprietary interest therein: *Provided,* That a grower who is also a handler must have produced not less than 51 percent of the apricots handled by him during the previous season in order to qualify as a grower under §§ 1020.20, 1020.22, and 1020.23.

[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 marketing orders have been met.

§ 1020.12 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting apricots owned by another person) who handles apricots.

§ 1020.13 *Handle.* "Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport apricots or cause the sale, consignment, delivery, or transportation of apricots or in any other way to place apricots, or cause apricots to be placed, in the current of the commerce from any point within the production area to any point outside thereof: *Provided,* That the term "handle" shall not include the transportation within the production area of apricots from the orchard where grown to a packing facility located within such area for preparation for market, or the delivery of such apricots to such packing facility for such preparation.

§ 1020.14 *District.* "District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 1020.31 (m):

(a) "District 1" shall include the Counties of Chelan, Okanogan, Douglas, and Grant.

(b) "District 2" shall include the Counties of Yakima, Benton, and Klickitat.

§ 1020.15 *Export.* "Export" means to ship apricots beyond the continental boundaries of the United States.

§ 1020.16 *Pack.* "Pack" means the specific arrangement, size, weight, count, or grade of a quantity of apricots in a particular type and size of container, or any combination thereof.

§ 1020.17 *Container.* "Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of apricots.

ADMINISTRATIVE BODY

§ 1020.20 *Establishment and membership.* There is hereby established a Washington Apricot Marketing Committee consisting of twelve members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Eight of the members and their respective alternates shall be growers or officers or employees of corporate growers. Four of the members and their respective alternates shall be handlers, or officers or employees of corporate handlers. The eight members of the committee who are growers or employees or officers of corporate growers are hereinafter referred to as "grower members" of the committee; and the four members of the committee who shall be handlers, or officers or employees of corporate handlers, are hereinafter referred to as "handler members" of the committee. Four of the grower members and their respective alternates shall be producers of apricots in District 1, and four of the grower members and their respective alternates shall be producers of apricots in District 2. Two of the handler members and their respective alternates shall be handlers of apricots in District 1, and two of the handler members with their respective alternates shall be handlers of apricots in District 2.

§ 1020.21 *Term of office.* The term of office of each member and alternate member of the committee shall be for 2 years beginning April 1 and ending March 31: *Provided,* That the terms of office of one-half the initial members and alternates shall end March 31, 1958. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. The terms of office of successor members and alternates shall be so determined that one-half of the total committee membership ends each March 31.

§ 1020.22 *Nomination*—(a) *Initial members.* Nominations for each of the eight initial grower members and four initial handler members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of group meetings of the growers and handlers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified, in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 1020.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than March 1 of each year, a meeting or meetings of growers and handlers in each district for the purpose of designating nominees for successor members and alternate members of the committee. At each such meeting a chairman and a secretary shall be selected by the growers and handlers eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces apricots. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If qualified, a person may vote either as a grower or as a handler but not as both.

(3) Only handlers, including duly authorized officers or employees of corporate handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles apricots. No handler shall participate in the election of nominees in more than one district in any one fiscal year. If qualified, a person may vote either as a grower or as a handler but not as both.

§ 1020.23 *Selection.* From the nominations made pursuant to § 1020.22, or from other qualified persons, the Secretary shall select the eight grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ 1020.24 *Failure to nominate.* If nominations are not made within the time and in the manner prescribed in § 1020.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 1020.20.

§ 1020.25 *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 1020.26 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 1020.22 and 1020.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 1020.20.

§ 1020.27 *Alternate members.* An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate member from the same district and group (handler or grower) to serve in such member's place and stead.

§ 1020.30 *Powers.* The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

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

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

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

§ 1020.31 *Duties.* The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to apricots;

(i) To submit to the Secretary such available information as he may request;

(j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

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

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation of any district on the committee: *Provided,* That any such changes shall reflect, insofar as practicable, shifts in apricot production within the districts and the production area.

§ 1020.32 *Procedure.* (a) Eight members of the committee, including alternates acting for members, shall constitute a quorum; and any action of the committee shall require the concurring vote of at least 7 members: *Provided,* That when two-thirds of the membership present is greater than 7, such requirement shall be two-thirds of such membership.

(b) The committee may provide for simultaneous meetings of groups of its members assembled at two or more designated places: *Provided,* That such meetings shall be subject to the establishment of communication between all such groups and the availability of loud speaker receivers for each group so that each member may participate in the discussions and other actions the same as if the committee were assembled in one place. Any such meeting shall be considered as an assembled meeting.

(c) The committee may vote by telegraph, telephone, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided,* That if an assembled meeting is held, all votes shall be cast in person.

§ 1020.33 *Expenses and compensation.* The members of the committee, and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and may also receive compensation, as determined by the committee, which shall not exceed $10 per day or portion thereof spent in performing such duties: *Provided,* That at its discretion the committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses and compensation, as aforesaid.

§ 1020.34 *Annual report.* The committee shall, prior to the last day of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal period; (b) an appraisal of the effect of such regulatory operations upon the apricot industry; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ 1020.40 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 1020.41.

§ 1020.41 *Assessments.* (a) Each person who first handles apricots shall, with respect to the apricots so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds will be incurred by the committee during each fiscal period. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apricots handled by him as the first handler thereof during the applicable fiscal period and the total quantity of apricots so handled by all persons during the same fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all apricots handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 1020.42 *Accounting.* (a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraph (2) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal period unless such person demands repayment thereof, in which event it shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Such reserve may be established at an amount not to exceed approximately one fiscal period's operational expenses; and such reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal period when there is a crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations, during any fiscal period, prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

RESEARCH

§ 1020.45 *Marketing research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of apricots. The expense of such projects shall be paid from funds collected pursuant to § 1020.41.

REGULATIONS

§ 1020.50 *Marketing policy.* (a) Each season prior to making any recommendations pursuant to § 1020.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apricots within the production area;

(2) The expected general quality and size of apricots in the production area and in other areas;

(3) The expected demand conditions for apricots in different market outlets;

(4) The expected shipments of apricots produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of apricots; and

(8) The type of regulations expected to be recommended during the season.

(b) In the event it becomes advisable, because of changes in the supply and demand situation for apricots, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report, including each revised marketing policy report, and copies thereof shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 1020.51 *Recommendations for regulation.* (a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apricots in the manner provided in § 1020.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for apricots during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 1020.52 *Issuance of regulations.* (a) The Secretary shall regulate, in the manner specified in this section, the handling of apricots whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of apricots grown in any district or districts of the production area;

(2) Limit the shipment of apricots by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of apricots.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to growers and handlers.

§ 1020.53 *Modification, suspension, or termination of regulations.* (a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 1020.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of apricots in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such suspension.

§ 1020.54 *Special purpose shipments.* (a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 1020.41, 1020.52, 1020.53, and 1020.55, and the regulations issued thereunder, handle apricots (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 1020.41, 1020.52, 1020.53, or 1020.55, the handling of apricots in such minimum quantities, or types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 1020.45), as the committee, with approval of the Secretary, may prescribe.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent apricots handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle apricots pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apricots will not be used for any purpose not authorized by this section.

§ 1020.55 *Inspection and certification.* Whenever the handling of any variety of apricots is regulated pursuant to § 1020.52 or § 1020.53, each handler who handles apricots shall, prior thereto, cause such apricots to be inspected by the Federal-State Inspection Service and certified by it as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall be required for apricots which previously have been so inspected and certified only if such apricots have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such apricots.

REPORTS

§ 1020.60 *Reports.* (a) Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part. Such reports may include, but are not necessarily limited to, the following: (1) The quantities of each variety of apricots received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such apricots, and (4) the destination of each such shipment.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be dis-

closed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the apricots received, and of apricots disposed of, by such handler as may be necessary to verify reports pursuant to this section.

MISCELLANEOUS PROVISIONS

§ 1020.61 *Compliance.* Except as provided herein, no person shall handle apricots, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle apricots except in conformity with the provisions of this part.

§ 1020.62 *Right of the secretary.* The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the 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 committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 1020.63 *Effective time.* The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 1020.64.

§ 1020.64 *Termination.* (a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of apricots for market: *Provided*, That such majority has produced for market during such period more than 50 percent of the volume of apricots produced for market in the production area; but such termination shall be effective only if announced on or before March 31 of the then current fiscal period.

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

§ 1020.65 *Proceedings after termination.* (a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) 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 of the trustees, to such person as the Secretary may direct; and (3) 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 of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 1020.66 *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) effect 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.

§ 1020.67 *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.

§ 1020.68 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency 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 part.

§ 1020.69 *Derogation.* Nothing contained in the provisions of this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1020.70 *Personal liability.* No member or alternate member of the committee and no employee or agent of the committee 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 act, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 1020.71 *Separability.* If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Order Directing That Referendum Be Conducted; Designation of Agents To Conduct Referendum; and Determination of Representative Period

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.; 68 Stat. 906, 1047), it is hereby directed that a referendum be conducted among the producers who, during the period April 1, 1956, through March 31, 1957 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the counties of Okanogan, Chelan, Douglas, Grant, Yakima, Benton, and Klickitat, in the State of Washington, in the production of apricots for market to ascertain whether such producers favor the issuance of an order regulating the handling of apricots grown in the aforesaid production area, which order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. R. H. Eaton and Allan Henry, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F. R. 5176; 19 F. R. 35).

Copies of the aforesaid annexed order, of the aforesaid referendum procedure, and of this order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D. C.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from any referendum agent or appointee.

[F. R. Doc. 57-2543; Filed, Apr. 1, 1957; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11964; FCC 57-306]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; LAMAR, COLO.

1. Notice is hereby given of rule making in the above-entitled matter.

2. The Commission has before it a petition filed on November 26, 1956, by Southeast Colorado Broadcasting Company, requesting the institution of rule making to amend § 3.606 *Table of assignments*, Television Broadcast Stations, so as to add Channel 12 to Lamar, Colorado, as follows:

City	Channel No.	
	Present	Proposed
Lamar, Colo.	18−	[1] 12−, 18−

[1] While Petitioner does not specify any carrier offset, a minus offset is suggested as the most effective use of the spectrum.

3. In support of its request, petitioner submits that it will file an application for a station in Lamar in the event Channel 12 is made available; that the proposal conforms to the Rules; that there are no operating stations within 100 miles of Lamar; and that there is no satisfactory television service in the Lamar area.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data.

5. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

6. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comment may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. In accordance with the provisions of § 1.764 of the rules, an original and 14 copies of all written comments and statements shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2518; Filed, Apr. 1, 1957; 8:50 a. m.]

[47 CFR Part 3]

[Docket No. 11965; FCC 57-307]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; PRESQUE ISLAND, MAINE

1. Notice is hereby given of rule making in the above-entitled matter.

2. On February 4, 1957, Northeastern Broadcasting Co., Inc., Presque Isle, Maine filed a petition to amend § 3.606 *Table of assignments*, Television Broadcast Stations, so as to assign Channel 10 to Presque Isle as follows:

City	Channel	
	Present	Proposed
Presque Isle, Maine	8, 19	8, 10, 19

This proposal suggests that Channel 6 be substituted for 10+ in Ste. Anne De La Pocatiere, Quebec, 7+ for 6 at Riviere Du Loup, Quebec and 11− for 7 at Matane, Quebec.

3. In support of its request petitioner states that there are no existing stations on these allocations and that the co-channel and adjacent channel separations will not be reduced.

4. Petitioner notes that such an assignment would provide a second VHF channel to serve the needs of Presque Isle, thus fostering competition; and that if Channel 10 is allocated to Presque Isle, it will file an application for that facility.

5. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data to the Commission.

6. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement setting forth his comments. Comments supporting the proposed amendment may also be filed on or before the same date. Comments in reply to original comments may be filed within 10 days from the last date for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. Authority for the adoption of the amendment proposed herein is contained in sections 1, 4 (i) and (j), 301, 303 (a), (b), (c), (d), (e), (f), (g), (h) and (r) and 307 (b) of the Communications Act of 1934, as amended, and section 4 of the Administrative Procedure Act.

8. In accordance with the provisions of § 1.764 of the rules, an original and 14 copies of all written comments shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2519; Filed, Apr. 1, 1957; 8:50 a. m.]

[47 CFR Part 3]

[Docket No. 11966; FCC 57-308]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; TULSA-MUSKOGEE, OKLA.

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it a petition filed on January 18, 1957 by Tulsa Broadcasting Company, Tulsa, Oklahoma, requesting the institution of rule making to amend § 3.606 of the Commission's rules and regulations so as to move the allocation of Channel 8 from Muskogee to Tulsa, as follows:

City	Channel No.	
	Present	Proposed
Tulsa, Okla.	2+, 6, *11−, 17+, 23	2+, 6, 8−, *11, 17+, 23
Muskogee, Okla.	8+, *45+, 66+	*45+, 66+

*Reserved for educational use.

3. In support of its request, petitioner submits that it is the licensee of Station KTVX, Channel 8, Muskogee, Oklahoma, with auxiliary studios in Tulsa, that the transmitter site of KTVX is approximately equidistance from the above cities, and that a better than city-grade signal is delivered to all of both cities.

4. Petitioner further notes that Muskogee is incapable of supporting a VHF facility, that the change would provide a third competitive facility for Tulsa, and that it is at substantial disadvantage in competing with Tulsa stations for audience and economic support because it is presently required to be identified as a Muskogee facility.

5. On March 5, 1957, an Opposition to the instant petition was filed by Central Plains Enterprises, Inc., permittee of Station KVOO-TV, Tulsa, Oklahoma.

6. The Commission is of the view that a rule making proceeding should be instituted in this matter in order that interested parties may submit their views and relevant data.

7. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement setting forth his comments. Comments supporting the proposed amendment may also be filed on or before the same date. Comments in reply to original comments may be filed within 10 days from the last date for reply to original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

8. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i), 301, 303 (c), (d), (f), (r), 307 (b) and 316 (a) of the Communications Act of 1934, as amended.

9. Tulsa Broadcasting is presently authorized to operate on Channel 8 at Muskogee, and the rule making proposed

herein would shift this frequency to Tulsa. In the event the Commission decides to amend the rules as proposed, the Commission will determine what further steps should be taken in light of this outstanding authorization.

10. In accordance with the provisions of § 1.764 of the rules, an original and 14 copies of all written comments and statements shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2520; Filed, Apr. 1, 1957; 8:50 a. m.]

[47 CFR Part 3]

[Docket No. 11967; FCC 57-309]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; MOSCOW, IDAHO

1. Notice is hereby given of rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed November 26, 1956, by KMOS-TV, Inc., Moscow, Idaho, for rule making to amend § 3.606 *Table of assignments*, Television Broadcast Stations, so as to assign Channels 9, 10 or 12 to Moscow, Idaho, as follows:

City	Channel	
	Delete	Add
Pullman, Wash.	*10-	
Moscow, Idaho		10-
or		
Coeur d'Alene, Idaho	12-	
Moscow, Idaho		12-
or		
Sandpoint, Idaho	[1] 9+	
Moscow, Idaho		9+

[1] Channel 9+ was deleted from Sandpoint, Idaho, in Docket No. 11794 effective November 14, 1956. Therefore, this alternative cannot be considered.
*Reserved for educational use.

3. In support of its request petitioner states that Moscow, Idaho, the seat of the University of Idaho, has a student population of 5,000, and a residential population of 12,000, that it is the county seat of Latah County which is a growing community in need of a commercial television station and that less than 1 percent of the TV receivers in the county are equipped to receive UHF.

4. An opposition to the instant petition to reassign Channel 10 in Pullman, Washington was filed on March 7, 1957, by State College of Washington. The opposition states that while they are not prepared, at this time, to apply for Channel 10, direct broadcasting over its own facilities is still a definite part of the three stage plan for full utilization of the medium. State College submits that the alternative proposed by KMOS-TV, Inc., to delete Channel 12 from Coeur d'Alene and assign it to Moscow should be adopted.

5. The Commission is of the view that rule making proceedings should be instituted in this matter in order to afford all interested parties an opportunity to submit their views and supporting data for our consideration in reaching a decision.

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

7. Any interested party who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

8. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2521; Filed, Apr. 1, 1957; 8:50 a. m.]

[47 CFR Part 3]

[Docket No. 11968; FCC 57-310]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; YUMA, ARIZ. AND EL CENTRO, CALIF.

1. Notice is hereby given of rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed on February 21, 1957, by Wrather-Alvarez Broadcasting, Inc., requesting an amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, so as to shift Channel 13 from Yuma, Arizona to El Centro, California as follows: [1]

City	Channel No.	
	Present	Proposed
Yuma, Ariz.	11-, 13+	11-
El Centro, Calif.	16, 56	13+, 16, 56

3. In support of the request petitioner urges that the proposed shift of Channel 13 to El Centro would conform to all the rules; that sites are available which would meet the separation requirements of the rules and from which a required city-grade signal could be placed over the city of El Centro; that a station so located would provide service to twice as many persons with the equivalent power and height of a station located near Yuma; that it would provide a first satisfactory signal to many persons in the Imperial Valley of California; and that no applications have been filed for the UHF assignments in the area and that there is little likelihood of their use in the foreseeable future.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that interested parties may submit their views and relevant data.

5. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement setting forth his comments. Comments supporting the proposed amendments may also be filed on or before the same date. Comments in reply to original comments may be filed within 10 days from the last date for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. Wrather-Alvarez Broadcasting, Inc. is presently authorized to construct a television station on Channel 13 at Yuma, Arizona, and the rule making proposed herein would shift this channel to El Centro. In the event the Commission decides to amend the rules as proposed, the Commission will determine what further steps should be taken in light of this outstanding authorization.

8. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2522; Filed, Apr. 1, 1957; 8:51 a. m.]

[47 CFR Part 3]

[Docket No. 11969; FCC 57-311]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; FARMINGTON, N. MEX.

1. Notice is hereby given of rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed on February 15, 1957 by Farmington Broadcast-

[1] A statement was also filed on March 18, 1957, by Valradio, Inc.

ing Company, Farmington, New Mexico, requesting an amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, so as to assign Channel 12+ to Farmington, New Mexico.

3. In support of its request petitioner urges that Farmington does not receive adequate television service; that the proposal conforms to the rules; that conversion problems and the inability of UHF to cover large distances at economical costs present obstacles to the use of such a channel in this area; and that an application for Channel 12 will be filed in the event the amendment is adopted.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that interested parties may submit their views and relevant data.

5. Authority for the adoption of the amendment herein is contained in sections 4 (i), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement setting forth his comments. Comments supporting the proposed amendments may also be filed on or before the same date. Comments in reply to original comments may be filed within 15 days from the last date for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2523; Filed, Apr. 1, 1957; 8:51 a. m.]

[47 CFR Part 3]

[Docket No. 11970; FCC 57-313]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS; HARRISBURG, YORK, READING, STATE COLLEGE, PA.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration two conflicting requests for rule making to amend § 3.606 *Table of assignments*, Television Broadcast Stations. The first was filed on January 8, 1957 by The Patriot News Company, permittee of Station WTPA, Channel 71, Harrisburg, Pennsylvania, and requests that Channel 33 be deleted from Reading, Pennsylvania, and assigned to Harrisburg, Pennsylvania, as follows:

City	Channel No.	
	Delete	Add
Harrisburg, Pa.		33+
Reading, Pa.	33+	
State College, Pa.	*48+	*69+

*Reserved for educational use.

A supplement to this petition was filed by Patriot News on January 14, 1957.

3. The second proposal was filed on March 4, 1957 by the Helm Coal Company, permittee of Station WNOW-TV, Channel 49, York, Pennsylvania, and requests that Channel 33 be deleted from Reading and assigned to York, Pennsylvania. Helm Coal further requests that the Commission order it to show cause why its outstanding authorization for Station WNOW-TV should not be modified to specify operation on Channel 33 in lieu of Channel 49.

4. In support of its request Patriot News submits that it is experiencing technical and financial difficulties with its operation on Channel 71; that there is no interest in Channel 33 in Reading; and that the proposal meets the requirements of the Rules except that the site of WPTA is only 72.4 miles from the site of WTLF on Channel 18 at Baltimore whereas the required separation is 75 miles. Petitioner states that WTLF is willing to move its site in order that WTPA could operate on Channel 33 from its present location.

5. In support of its request Helm Coal Company urges that its proposal would assure the opportunity for continued competitive television in the area and would require no other changes in the Table except for the deletion of Channel 33 in Reading. It submits that there would be a violation of the required spacing to Channel 18 in Baltimore, but urges that this requirement be waived.[1]

6. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data.

7. In the event it is decided to amend the rules as proposed, the Commission will determine what further steps should be taken in light of the outstanding authorizations.

8. Authority for the adoption of the amendments proposed by petitioner is contained in section 4 (i), 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

9. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before April 30, 1957, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

10. In accordance with the provisions of §1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: March 27, 1957.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2524; Filed, Apr. 1, 1957; 8:51 a. m.]

[1] It is noted that transmitter sites may be available which would meet the requirements of the rules with respect to separations and coverage of the city with the required signal.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

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

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF TOXAPHENE

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by Hercules Powder Company, Wilmington 99, Delaware, proposing the establishment of a tolerance of 7 parts per million for residues of toxaphene (chlorinated camphene containing 67%-69% chlorine) in or on the fat of meat from cattle, goats, hogs, and sheep.

The tolerance for toxaphene in the fat of meat from cattle would limit the feed uses of toxaphene to corn stover containing up to 8 parts per million toxaphene, with no toxaphene occurring in the fattening diet. No tolerance is requested for toxaphene in or on corn stover, on the basis that it is not moved off the farm and does not come within the jurisdiction of the Federal Food, Drug, and Cosmetic Act. The tolerances requested are also for the purpose of permitting residues of toxaphene in the fat of meat animals from its use for control of ectoparasites.

The analytical methods proposed in the petition for determining residues of toxaphene are the methods described in U. S. Department of Agriculture Bulletin ARS-33-25, July 1956, entitled "Insecticide Residues in Meat and Milk," by H. V. Claborn. After suitable purification of the extract, the residue in the animal fat was identified by its infrared spectrum. The infrared absorption spectrum of toxaphene in animal fat is reported in "Infrared Absorption Spectrum of Toxaphene," Analytical Chemistry, Volume 24, page 1197, July 1952.

Dated: March 26, 1957.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological and Physical Sciences.

[F. R. Doc. 57-2506; Filed, Apr. 1, 1957; 8:48 a. m.]

[21 CFR Part 120]

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

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF ENDRIN

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by Shell Chemical Corporation, 460 Park Avenue, New York 22, New York, proposing the establishment of tolerances for residues of endrin, as follows:

0.02 part per million in milk.

0.1 part per million in or on corn forage; sorghum forage; grain of field corn, popcorn, sweet corn, milo, sorghum, wheat, barley, oats, rice, and rye; eggs from poultry.

0.25 part per million in or on grass for forage (including small grains forage); legume forage (including clover, alfalfa, cowpea hay, lespedeza, lupines, peanut hay, pea-vine hay, soybean hay, and vetch); fat of meat from beef cattle, hogs, sheep, and poultry.

0.75 part per million in or on straws (including wheat, barley, oats, rice, and rye).

The analytical methods proposed in the petition for determining residues of endrin are as follows:

1. The dechlorination-phenylazide-photometric method described in the Notice of Filing of Petition in the FEDERAL REGISTER of November 4, 1955 (20 F. R. 8315).

2. The method described in U. S. Department of Agriculture Bulletin ARS-33-25, July 1956, entitled "Insecticide Residues in Meat and Milk," by H. V. Claborn.

3. The method described by L. C. Terriere and Ulo Kiigemagi in Abstracts of Papers, 129th Meeting, American Chemical Society, April 1956, page 15A.

Dated: March 26, 1957.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological and Physical Sciences.

[F. R. Doc. 57-2507; Filed, Apr. 1, 1957; 8:48 a. m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 141]

[Docket No. R-159]

UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES AND ANNUAL REPORT FORM NO. 1 RESPECTING TREATMENT OF DEFERRED TAXES ON INCOME

NOTICE OF EXTENSION OF TIME

MARCH 26, 1957.

Upon consideration of the request filed March 21, 1957, by Edison Electric Institute for an extension of time for submitting comments in the above-designated matter;

An extension is hereby granted to and including April 15, 1957, within which to submit data, views, comments, and suggestions in this matter.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2493; Filed, Apr. 1, 1957; 8:45 a. m.]

[18 CFR Part 201]

[Docket No. R-158]

UNIFORM SYSTEM OF ACCOUNTS RESPECTING TREATMENT OF DEFERRED TAXES ON INCOME

NOTICE OF FURTHER EXTENSION OF TIME

MARCH 26, 1957.

Upon consideration of the request filed March 22, 1957, by American Gas Association for a further extension of time for submitting comments in the above-designated matter;

A further extension of time is hereby granted to and including April 15, 1957, within which to submit data, views, comments, and suggestions in this matter.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2492; Filed, Apr. 1, 1957; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 198]

[Ex Parte No. MC-40]

TRANSPORTATION OF MIGRANT WORKERS BY MOTOR VEHICLE

QUALIFICATIONS AND MAXIMUM HOURS OF SERVICE OF EMPLOYEES OF MOTOR CARRIERS AND SAFETY OF OPERATION AND EQUIPMENT

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 22d day of March, A. D. 1957.

It appearing that by order dated December 17, 1956, the Commission published a notice of proposed rule making in which certain regulations were proposed so as to establish for carriers of migrant workers by motor vehicle, reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment, limited to cases of transportation of any migrant worker for a total distance of more than 75 miles, and then only if such transportation is across the boundary line of any State, the District of Columbia, or a territory of the United States, or a foreign country; and

It further appearing that statements of data, views, and arguments with respect to the proposed regulations were seasonably filed by numerous individuals and associations representing persons interested therein; and

It further appearing, that the Virginia Potato and Vegetable Growers Association and others have requested that a public hearing be granted to afford such persons full opportunity to present their position; and good cause appearing therefor;

It is ordered, That the matter be, and it is hereby, referred to Examiner R. Edwin Brady for hearing on the 8th day of May, A. D. 1957, at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., District of Columbia daylight saving time, if that time be observed), at the Office of the Interstate Commerce Commission, Washington, D. C., and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor; and

It is further ordered, That the statements of data, views, and arguments filed pursuant to the said order of December 17, 1956 be, and they are hereby, filed as a part of the record herein;

And it is further ordered, That notice of this order shall be given to motor carriers, other persons of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Interstate Commerce Commission, Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 57-2545; Filed, Apr. 1, 1957; 8:56 a. m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Office of the Secretary

SOUTH CAROLINA

DISASTER ASSISTANCE; DESIGNATION OF AREA FOR SPECIAL EMERGENCY LOANS

For the purpose of making emergency loans pursuant to Public Law 727, 83d Congress, as amended, it is determined that in the following counties in the State of South Carolina there is a need for agricultural credit which cannot be met for a temporary period from commercial banks, cooperative lending agencies, the Farmers Home Administration under its regular programs, or under Public Law 38, 81st Congress (12 U. S. C. 1148a-2), as amended, or other responsible sources.

SOUTH CAROLINA

Chester.	Laurens.
Chesterfield.	Pickens.
Fairfield.	Richland.
Georgetown.	Spartanburg.
Greenville.	Williamsburg.
Kershaw.	

Pursuant to the authority set forth above, such loans may be made to new applicants in said counties through June 30, 1957. Thereafter, such loans may be made in said counties only to applicants

who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 28th day of March, 1957.

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-2544; Filed, Apr. 1, 1957; 8:56 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 54331]

TUNA FISH

REVISED TARIFF-RATE QUOTA FOR CALENDAR YEAR 1957

MARCH 27, 1957.

Treasury Decision 54299 sets forth the estimated quantity of tuna fish which may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1957 at the rate of 12½ per centum ad valorem under paragraph 718 (b), Tariff Act of 1930, as modified.

On the basis of final data furnished by the United States Fish and Wildlife Service on the United States pack of canned tuna during the calendar year 1956, it has been determined that 44,528,533 pounds of tuna may be entered, or withdrawn, for consumption during the calendar year 1957 at the rate of 12½ per centum ad valorem under paragraph 718 (b) of the tariff act, as modified. Quota-class tuna entered, or withdrawn, for consumption during the year in excess of this quantity will be dutiable at the full rate of 25 per centum ad valorem under paragraph 718 (b).

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 57-2503; Filed, Apr. 1, 1957; 8:47 a. m.]

Foreign Assets Control

IMPORTATION OF CERTAIN MERCHANDISE DIRECTLY FROM TAIWAN (FORMOSA)

AVAILABLE CERTIFICATIONS BY THE REPUBLIC OF CHINA

Notice is hereby given that certificates of origin issued by the Ministry of Economic Affairs of the Republic of China under procedures agreed upon between that government and the Foreign Assets Control are available, as of April 1, 1957, with respect to the importation into the United States directly, or on a through bill of lading, from Taiwan (Formosa) of the following additional commodities:

Yueh Tao Grass Squares.
Citronella Grass Squares.
Joss Paper.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 57-2517; Filed, Apr. 1, 1957; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LAND IN OREGON

REVOCATION OF O. AND C. MARKETING REQUIREMENTS FOR TIMBER

March 28, 1957.

Pursuant to the authority contained in section 1 of the act of August 28, 1937 (50 Stat. 874) and in Order No. 2583, Amendment 12, September 17, 1954, of the Secretary of the Interior, it is hereby ordered that O. and C. marketing requirements be revoked. This action is taken pursuant to the findings resulting from a public hearing held in Portland, Oregon, March 1, 1957, notice of which was published January 30, 1957, in Volume 22 of the FEDERAL REGISTER.

The lands involved in this notice include all lands administered by the Bureau of Land Management in Oregon west of the 122d Meridian, including the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands, and other lands administered pursuant to the act of August 28, 1937 (50 Stat. 874), and public lands.

EDWARD WOOZLEY,
Director,

[F. R. Doc. 57-2576; Filed, Apr. 1, 1957; 10:00 a. m.]

Bureau of Reclamation

FLATHEAD RIVER PROJECT, MONTANA

FIRST FORM RECLAMATION WITHDRAWAL

SEPTEMBER 7, 1957.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby withdraw the following-described lands from public entry, under the first form of withdrawal, as provided by Section 3 of the Act of June 17, 1902 (32 Stat. 388):

MONTANA PRINCIPAL MERIDIAN

T. 27 N., R. 14 W.,
Secs. 3, 4, 5, 6, 9, 10; all.
T. 28 N., R. 14 W.,
Secs. 30, 31, 32, 33; all.
T. 27 N., R. 15 W.,
Secs. 2, 4, 5, 6, 7, 8, 9, 16; all.
T. 28 N., R. 15 W.,
Secs. 18, 19, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; all.
T. 28 N., R. 16 W.,
Secs. 13, 24, 25, 35, 36; all.

The above areas aggregate approximately 24,320 acres.

E. G. NIELSEN,
Assistant Commissioner.

[73152]

MARCH 25, 1957.

I concur. The records of the Bureau of Land Management will be noted accordingly.

E. J. THOMAS,
Acting Director,
Bureau of Land Management.

Notice for Filing Objections to Order Withdrawing Public Lands for the Flathead River Project, Montana

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain unsurveyed public lands in the State of Montana, for use in connection with the proposed development of the Spruce Park Dam and Reservoir of the Flathead River Project, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

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, notice of the determination by the Secretary 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.

E. G. NIELSEN,
Assistant Commissioner.

[F. R. Doc. 57-2456; Filed, Apr. 1, 1957; 8:45 a. m.]

OWYHEE PROJECT, OREGON

FIRST FORM RECLAMATION WITHDRAWAL

FEBRUARY 3, 1956.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954 (19 F. R. 5004), I hereby withdraw the following-described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

WILLAMETTE MERIDIAN, OREGON

T. 31 S., R. 41 E.,
Sec. 4, S½NE¼, S½NW¼;
Sec. 7, W½SE¼;
Sec. 8, S½NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 9, N½, E½SW¼, SE¼;
Sec. 10, S½;
Sec. 12, S½SW¼;
Sec. 14, all;
Sec. 18, Lots 3 and 4, E½SW¼, W½SE¼;
Sec. 22, N½NE¼, NW¼;
Sec. 24, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 26, E½E½.
T. 32 S., R. 41 E.,
Sec. 1, Lots 1, 2 and 3, S½NE¼, SE¼NW¼, E½SE¼.
T. 31 S., R. 42 E.,
Sec. 5, S½NE¼, N½SW¼;
Sec. 18, Lot 1 and NE¼NW¼;
Sec. 30, W½SE¼;
Sec. 31, All.
T. 32 S., R. 42 E.,
Sec. 4, S½S½;
Sec. 5, S½;
Sec. 6, All;
Sec. 7, Lots 1 and 2, N½NE¼;
Sec. 8, N½NE¼, N½NW¼;
Sec. 9, NE¼, N½NW¼.

The above areas aggregate approximately 7,925 acres.

E. G. NIELSEN,
Acting Commissioner.

[70851]

MARCH 25, 1957.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands shall be administered by the Bureau of Land Management until they are needed for reclamation purposes.

E. J. THOMAS,
Acting Director,
Bureau of Land Management.

Notice for Filing Objections to Order Withdrawing Public Lands for the Owyhee Project, Oregon

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the State of Oregon, for use in connection with the proposed development of the Duncan Ferry Reservoir area of the Owyhee Project, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 26, D. C.

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 proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary 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.

E. G. NIELSEN,
Acting Commissioner.

[F. R. Doc. 57-2458; Filed, Apr. 1, 1957; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

ATLANTIC AND GULF/WEST COAST OF SOUTH AMERICA CONFERENCE ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

(1) Agreement No. 2744-20, between the member lines of the Atlantic & Gulf/West Coast of South America Conference, modifying the basis agreement of that conference (No. 2744, as amended), which covers the trade from U. S. Atlantic and Gulf ports to West Coast ports in Colombia, Ecuador, Peru and Chile;

(2) Agreement No. 3868-13, between the member lines of the Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference, modifying the basic agreement of that conference (No. 3868, as amended), which covers the trade between U. S. Atlantic and Gulf ports and Colon and Panama City and all points in the Canal Zone;

(3) Agreement No. 4189-17, between the member lines of the Havana Steamship Conference, modifying the basic agreement of that conference (No. 4189, as amended), which covers the trade from North Atlantic ports (Maine to Virginia inclusive) to Havana, Mariel, and Matanzas, Cuba;

(4) Agreement No. 4610-3, between the member lines of the U. S. Atlantic & Gulf Ports-Jamaica (B. W. I.) Steamship Conference, modifying the basic agreement of that conference (No. 4610, as amended), which covers the trade from U. S. Atlantic and Gulf ports (Portland, Maine, to Houston, Texas inclusive) to Kingston, Jamaica, and to the outports of Jamaica;

(5) Agreement No. 6190-14, between the member lines of the U. S. Atlantic & Gulf-Venezuela and Netherlands Antilles Conference, modifying the basic agreement of that conference (No. 6190, as amended), which covers the trade between U. S. Atlantic and Gulf ports and ports in Venezuela and in the Islands of Curacao, Aruba and Bonaire, Netherlands Antilles;

(6) Agreement No. 7540-7, between the member lines of the Leeward & Windward Islands & Guianas Conference, modifying the basic agreement of that conference (No. 7540, as amended), which covers the trade between U. S. Atlantic and Gulf ports and ports in the Virgin Islands, Leeward & Windward Islands, Trinidad, Barbados, British, French and Netherlands Guianas;

(7) Agreement No. 7590-6, between the member lines of the East Coast Columbia Conference, modifying the basic agreement of that conference (No. 7590, as amended), which covers the trade between U. S. Atlantic and Gulf ports and the ports of Barranquilla, Cartagena and Puerto Columbia, Columbia, S. A.;

(8) Agreement No. 7650-6, between the member lines of the Santiago de Cuba Conference modifying the basic agreement of that conference (No. 7650, as amended), which covers the trade between U. S. Atlantic and Gulf ports and the port of Santiago de Cuba;

(9) Agreement No. 7900-3, between the member lines of the United States Atlantic & Gulf Bermuda Conference, modifying the basic agreement of that conference (No. 7900, as amended), which covers the trade between U. S. Atlantic and Gulf ports, and ports in Bermuda;

(10) Agreement No. 8120-2, between the member lines of the United States Atlantic & Gulf-Haiti Conference, modifying the basic agreement of that conference (No. 8120), which covers the trade between U. S. Atlantic and Gulf ports and ports in Haiti; and

(11) Agreement No. 8300-1 between the member lines of the Atlantic and Gulf/West Coast of Central America and Mexico Conference, modifying the basic agreement of that conference (No. 8300), which covers the trade between U. S. Atlantic and Gulf ports and West Coast ports of Panama (except Panama R. P.), Costa Rica, Nicaragua, Honduras, Salvador, Guatemala and Mexico.

The purpose of the above modifications is to amend the respective conference agreements to provide that each new member shall contribute the sum of $2500 to the general conference fund, and that an amount not to exceed $1500 is refundable, in the discretion of the conference chairman under conditions set forth in the agreement, to any such member upon withdrawal from the conference while in good standing. The respective conference agreements presently require an admission fee of $1000, no part of which is refundable.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 28, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-2502; Filed, Apr. 1, 1957; 8:47 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-58]

OKLAHOMA AGRICULTURAL & MECHANICAL COLLEGE

NOTICE OF APPLICATION FOR UTILIZATION FACILITY LICENSE

Please take notice that on March 20, 1957, the Oklahoma Agricultural & Mechanical College, Stillwater, Oklahoma, filed an application under section 104 of the Atomic Energy Act of 1954 for a license to acquire, possess and operate on its campus a 100-milliwatt research reactor designated as Model AGN-201, Serial No. 102. A copy of the application is available for public inspection in the AEC Public Document Room located at 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 25th day of March 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Deputy Director,
Division of Civilian Application.

[F. R. Doc. 57-2501; Filed, Apr. 1, 1957; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7336]

PAN AMERICAN WORLD AIRWAYS, INC.

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding, now as-

signed for April 10, 1957, has been postponed to May 7, 1957, 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., March 28, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-2532; Filed, Apr. 1, 1957; 8:52 a. m.]

[Docket No. 8242]

SHULMAN, INC.; INTERLOCKING AND CONTROL RELATIONSHIPS

NOTICE OF HEARING

In the matter of the petition of Mary, Martin, Benjamin, and Anna Shulman for approval of the interlocking relationships between, and the acquisition of common control of, Shulman, Inc., a Delaware corporation (an airfreight forwarder) and Shulman, Inc., a Massachusetts corporation (an intra-state motor carrier and applicant for an interstate forwarder license from the Interstate Commerce Commission) pursuant to sections 408 and 409 of the Civil Aeronautics Act of 1938 as amended.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled proceeding will be held on April 5, 1957, at 10:00 a. m., e. s. t., in Room 5859, Commerce Building, 14th and Constitution Avenue NW., Washington, D. C., before Paul N. Pfeiffer, Hearing Examiner.

Without limiting the scope of the issues, particular attention will be directed to the following matters:

1. Will the (1) common control of Shulman of Delaware and Shulman of Massachusetts by individual applicants, and (2) the contemplated control of Shulman of Delaware by Shulman of Massachusetts create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to such acquisition of control, and thus be inconsistent with the public interest? Section 408 (a) (5).

2. Will the holding of these interlocking relationships adversely affect the public interest? Section 409 (a) (3).

3. Are the terms of the transaction resulting in 1 (1) and 1 (2) above just and reasonable?

4. Should the application be held in abeyance under the Sherman doctrine because of the existing common control of the two Shulman corporations without prior Board approval?

For further details of the issues involved in this proceeding interested persons are referred to the petition and other documents entered in the docket of this proceeding, all of which are on file with the Civil Aeronautics Board.

Notice is further given that any person other than parties of record desiring to be heard in this proceeding should file with the Board, on or before April 5, 1957, a statement setting forth the issues of fact or law raised by said application which he desires to controvert.

Dated at Washington, D. C., March 27, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-2533; Filed, Apr. 1, 1957; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11776; FCC 57M-275]

LEO JOSEPH THERIOT (KLFT)

ORDER SCHEDULING HEARING CONFERENCE

In re application of Leo Joseph Theriot (KLFT), Golden Meadow, Louisiana, Docket No. 11776; File No. BP-10482; for construction permit.

It is ordered, This 26th day of March 1957, no procedural steps having been taken in the above-entitled proceeding, that Charles J. Frederick, in lieu of Jay A. Kyle, will preside at the hearing in the said proceeding; and that a hearing conference is hereby scheduled to be held in the Offices of the Commission, Washington, D. C., commencing April 2, 1957.

Released: March 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2525; Filed, Apr. 1, 1957; 8:51 a. m.]

[Docket No. 11904; FCC 57M-274]

WNAB, INC. (WNAB)

ORDER SCHEDULING HEARING CONFERENCE

In re application of WNAB, Incorporated (WNAB), Bridgeport, Connecticut, Docket No. 11904, File No. BP-10659; for construction permit.

It is ordered, This 26th day of March 1957, no procedural steps having been taken in the above-entitled proceeding, that Millard F. French, in lieu of Jay A. Kyle, will preside at the hearing in the said proceeding; and that a hearing conference is hereby scheduled to be held in the Offices of the Commission, Washington, D. C., commencing April 2, 1957.

Released: March 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2526; Filed, Apr. 1, 1957; 8:51 a. m.]

[Docket Nos. 11940, 11941; FCC 57M-278]

SARKES TARZIAN, INC. AND GEORGE A. BROWN, JR.

ORDER CONTINUING HEARING CONFERENCE

In re application of Sarkes Tarzian, Inc., Bowling Green, Kentucky; Docket No. 11940, File No. BPCT-2114; George A. Brown, Jr., Bowling Green, Kentucky; Docket No. 11941, File No. BPCT-2131; for construction permits for new television stations.

Upon the Examiner's own motion and for good cause shown, *It is ordered*, This 26th day of March 1957, that the prehearing conference in the above-entitled matter, originally scheduled for March 28, 1957, is hereby continued to April 4, 1957 at 10:00 a. m. in the Offices of the Commission, Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2527; Filed, Apr. 1, 1957; 8:51 a. m.]

[Docket Nos. 11948, 11949; FCC 57M-277]

DENVER T. BRANNEN AND MEL WHEELER

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Denver T. Brannen, Panama City, Florida, Docket No. 11948, File No. BP-10562; Mel Wheeler, Panama City Beach, Florida, Docket No. 11949, File No. BP-10885; for construction permits.

It is ordered, This 26th day of March 1957, that a prehearing conference in the above-entitled proceeding will be held in the Offices of the Commission, Washington, D. C., on Monday, April 15, 1957, commencing at 10:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2528; Filed, Apr. 1, 1957; 8:52 a. m.]

[Docket No. 11950 etc.; FCC 57M-276]

VALLEY BROADCASTING CO. ET AL.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of William John Hyland, III and Dawkins Espy, d/b as Valley Broadcasting Co., Bakersfield, California, Docket No. 11950, File No. BP-10695; Southwest Broadcasting Company, Inc., Palmdale, California, Docket No. 11951, File No. BP-10720; Rod O'Harra and A. J. Krisik, d/b as O. K. Broadcasting Co., Bakersfield, California, Docket No. 11952, File No. BP-10843; for construction permits.

It is ordered, This 26th day of March 1957, that a prehearing conference in the above-entitled proceeding will be held in the Offices of the Commission, Washington, D. C., on Monday, April 8, 1957, commencing at 10:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2529; Filed, Apr. 1, 1957; 8:52 a. m.]

[Docket No. 11972; FCC 57-316]

AMERICAN TELEPHONE AND TELEGRAPH CO. ET AL.

ORDER INSTITUTING INVESTIGATION AND HEARING

In the matter of American Telephone and Telegraph Company, et al., lease and maintenance of equipment and facilities for private communication systems.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of March 1957;

The Commission having under consideration tariff schedules filed on February 21, 1957, by the American Telephone and Telegraph Company (AT&T), to become effective March 28, 1957, and designated Tariff FCC No. 235, setting forth rates and regulations applicable to the lease and maintenance of private mobile communication systems; Transmittal No. 5390 of AT&T accompanying said tariff schedules; the Commission's letter, dated March 4, 1957, to AT&T regarding such tariff schedules and AT&T's reply thereto, dated March 20, 1957; certain revisions of the aforementioned tariff filed by AT&T pursuant to Special Permission No. 3440, dated March 22, 1957; a "Petition to Strike and Return Tariff" filed on March 14, 1957, by Motorola, Inc., requesting that the Commission issue an Order prior to the effective date of the aforementioned tariff schedules either (1) striking the tariff from the Commission's files and returning it to AT&T, or (2) striking and returning such tariff subject to decision after oral argument (and briefs) before the commission en banc "on the legal question of the Commission's common carrier tariff jurisdiction over the subject matters included in the document", and requesting further any additional relief as the Commission may deem proper; and pleadings entitled "Protest and Request for Suspension" filed on March 18, 1957 by (1) Watson Communications Systems, Inc., and other persons and firms allegedly engaged in the business of supplying and maintaining private mobile radio systems in the State of California, (2) Petroleum Industry Electrical Association, and (3) Central Committee on Radio Facilities of the American Petroleum Institute, respectively; the opposition to the aforementioned Petition and Protests filed on March 25, 1957 by AT&T; and the reply to such opposition filed on March 26, 1957, by Motorola, Inc.;

It appearing that, under the above described tariff schedules, AT&T proposes to lease and maintain equipment and facilities for private mobile communications systems consisting of one land radiotelephone station with associated channels and equipment for remote operation and control and one or more associated mobile radio stations to persons eligible to be licensed by this Commission in the following Safety and Special Radio Services: Maritime, Aviation, Public Safety, Industrial, Land Transportation and Citizens Radio Services;

It appearing that a substantial question is presented by the aforementioned tariff schedules as to whether the lease and maintenance of private mobile communications systems, as contemplated by said tariff schedules, constitute a common carrier communications service which is subject to the Commission's jurisdiction under the provisions of Title II of the Communications Act of 1934, as amended, and, if so, whether the charges, classifications, regulations and practices set forth in said tariff schedules as applicable to the proposed lease and maintenance service are just and reasonable and otherwise lawful under the provisions of sections 201 and 202 of the Communications Act and comply with the requirements of section 203 of said act and § 61.55 of the Commission's rules and regulations;

It further appearing that pending resolution of the aforementioned questions, the public interest requires that the effectiveness of the aforementioned tariff schedules should be suspended pursuant to the provisions of section 204 of the Communications Act;

It further appearing that the Commission has inherent powers under the provisions of the Communications Act of 1934, as amended, to strike from its files any document filed as a tariff schedule purportedly pursuant to the requirements of section 203 (a) of the said act, where such document does not contain charges for interstate and foreign wire or radio communication, or classifications, regulations and practices relating thereto; but that the facts and circumstances relating hereto do not warrant our making such a prior determination and the exercise of such powers with respect to the aforementioned tariff schedules of AT&T, until the Commission has had an opportunity, on the basis of a full evidentiary hearing, to consider and determine whether such tariff schedules fail to come within the scope of the Commission's jurisdiction under the Communications Act;

It further appearing, that the aforementioned question as to whether the proposed lease and maintenance service is a common carrier communication service subject to the provisions of Title II of the Communications Act should be promptly resolved by the Commission; and that consideration and resolution of the questions pertaining to the lawfulness of the specific rates and regulations of the aforementioned tariff should be deferred until the jurisdictional question has been determined by the Commission;

It further appearing that the Bell System companies (other than AT&T) listed in Attachment A hereof have, for several years, been leasing and maintaining equipment and facilities used by private communication systems with or without associated channels and equipment for remote operation and control; that such other Bell System companies may file tariff schedules with the Commission applicable to their lease and maintenance operations; and that similar questions as to the jurisdictional status of such operations under the provisions of Title II of the Communications Act will also be presented, by such tariff filings;

It further appearing that to facilitate the resolution of all the foregoing jurisdictional questions in a manner conducive to the interests of the public in the orderly dispatch of the Commission's functions, the investigation and hearings to be ordered herein should include consideration of the terms, conditions, and arrangements under which the Bell System companies currently provide, and may provide in the future, lease and maintenance services, and the extent to which such services constitute or will constitute common carrier communication service subject to the jurisdiction of the Commission under the provisions of Title II of the Communications Act;

It is ordered, That pursuant to the provisions of sections 4 (i), 201, 202, 203, 204, 205, 218 and 403 of the Communications Act of 1934, as amended, an investigation is hereby instituted to determine (1) whether the lease and maintenance of private mobile communications systems, as contemplated by the aforementioned tariff schedules of AT&T (Tariff FCC No. 235), constitute a common carrier communications service subject to the Commission's jurisdiction under the provisions of Title II of the Communications Act of 1934, as amended, and, if so, whether the charges, classifications, regulations and practices set forth in such tariff schedules are lawful under the provisions of sections 201 and 202 of said act, and comply with the requirements of section 203 of said act and § 61.55 of the Commission's rules and regulations; and (2) the extent to which lease and maintenance services of the other Bell Systems companies as are currently provided or may be provided in the future, constitute or will constitute common carrier communication services subject to the Commission's jurisdiction under the provisions of Title II of the Communications Act of 1934, as amended;

It is further ordered, That pursuant to the provisions of section 204 of the Communications Act of 1934, as amended, the operation of the aforementioned tariff schedules of AT&T, designated Tariff FCC No. 235, is hereby suspended until June 28, 1957; and that during such period of suspension, AT&T shall make no changes in such tariff schedules except as authorized or directed by the Commission;

It is further ordered, That without in any way limiting the scope of the proceedings herein, they shall include consideration of the following:

(1) Whether the lease and maintenance of private mobile communications systems as contemplated by the aforementioned tariff schedules (Tariff FCC No. 235) of AT&T constitute a common carrier communication service subject to the jurisdiction of the Commission under the provisions of Title II of the Communications Act of 1934, as amended; and, if not, whether such tariff schedules should be stricken from the files of the Commission and returned to AT&T.

(2) The terms, conditions, and arrangements under which the Bell System companies (other than AT&T) now provide and intend to provide equipment and facilities on a lease and maintenance basis for private communications systems to persons eligible to be licensed by the Commission in any of the Safety and

Special Radio Services, and the extent to which such services constitute or will constitute common carrier communication services subject to the jurisdiction of the Commission under Title II of the Communications Act of 1934, as amended;

(3) In the event that it is determined under issue (1) above that the lease and maintenance of private mobile communication systems, as contemplated by AT&T's Tariff FCC No. 235, constitute a service subject to the Commission's jurisdiction

a. Whether any of the charges, classifications, regulations, and practices contained in such tariff schedules are or will be unjust and unreasonable within the meaning of section 201 (b) of the Communications Act of 1934, as amended;

b. Whether such tariff schedules will subject any person or class of persons to unjust or unreasonable discrimination, or give any undue or unreasonable preference or advantage to any person, class of persons or locality, or subject any person, class of persons or locality to any undue or unreasonable prejudice or disadvantage within the meaning of section 202 (a) of the Communications Act of 1934, as amended;

c. Whether such tariff schedules comply with the requirements of section 203 of the Communications Act of 1934, as amended, and Part 61.55 of the Commission's rules and regulations;

d. Whether the Commission should prescribe just and reasonable charges, classifications, regulations, and practices or the maximum or minimum or maximum and minimum charges to be hereafter followed with respect to the service governed by the aforementioned tariff schedules, and, if so, what charges, classifications, regulations and practices should be prescribed.

It is further ordered, That a hearing shall be held herein at the Commission's offices in Washington, D. C., at a time to be hereafter designated, and that the Hearing Examiner hereafter to be designated to preside at the hearings herein shall proceed forthwith to complete the taking of evidence with respect to the above-specified issues No. 1 and No. 2 relating to the jurisdictional questions; that upon completion of the taking of such evidence, the record thereon shall be certified by the Hearing Examiner to the Commission for decision without preparing either an Initial Decision or Recommended Decision; and that thereafter the hearings with respect to the remaining issues shall be subject to such further orders as may be issued herein;

It is further ordered, That American Telephone and Telegraph Company and the other Bell System companies listed in Attachment A hereof are hereby made parties respondents in the proceedings herein and that each of the aforementioned petitioners and protestants are hereby granted leave to intervene in these proceedings upon filing notice of intention to participate herein within 15 days from the date of issue of this Order;

It is further ordered, That nothing contained in this Order is to be construed as a finding or determination by the Commission that the lease and maintenance of private mobile communication systems, as contemplated by the aforementioned tariff schedules of AT&T, is a common carrier communication service subject to the jurisdiction of the Commission under Title II of the Communications Act of 1934, as amended;

It is further ordered, That the petition of Motorola, Inc. is denied insofar as it requests the Commission to strike the aforementioned tariff and return same to AT&T, but is granted as otherwise provided herein.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Bell Telephone Company of Nevada.
The Bell Telephone Company of Pennsylvania.
The Chesapeake and Potomac Telephone Company.
The Chesapeake and Potomac Telephone Company of Maryland.
The Chesapeake and Potomac Telephone Company of Virginia.
The Chesapeake and Potomac Telephone Company of West Virginia.
The Cincinnati and Suburban Bell Telephone Company.
Citizens Telephone Company.
The Diamond State Telephone Company.
The Harrison Telephone Company.
Illinois Bell Telephone Company.
Indiana Bell Telephone Company, Incorporated.
Michigan Bell Telephone Company.
The Mountain States Telephone and Telegraph Company.
New England Telephone and Telegraph Company.
New Jersey Bell Telephone Company.
New York Telephone Company.
Northwestern Bell Telephone Company.
The Ohio Bell Telephone Company.
The Pacific Telephone and Telegraph Company.
Southern Bell Telephone and Telegraph Company.
The Southern New England Telephone Company.
Southwestern Bell Telephone Company.
Wisconsin Telephone Company.

[F. R. Doc. 57-2530; Filed, Apr. 1, 1957; 8:52 a. m.]

[Amdt. 0-29; FCC 57-318]

FIELD ENGINEERING AND MONITORING BUREAU

ORGANIZATIONAL CHANGES

In the matter of amendment of Part 0, Statement of Organization, Delegations of Authority and Other Information. Organizational changes in Field Engineering and Monitoring Bureau.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of March 1957;

The Commission having under consideration certain organizational changes within the Field Engineering and Monitoring Bureau involving transfer of the function of administering Parts 15 and 18 of the Commission's rules from the Engineering Division to Monitoring Division, and clarification of the Engineering Division's responsibilities with regard to determination of technical equipment and facilities requirements of the field and provision of such equipment and facilities, including construction and installation of specialized equipment which is not available from other sources,

It is ordered, Pursuant to section 4 (i) of the Communications Act of 1934, as amended, and section 3 (a) of the Administrative Procedures Act that Part 0 of the Commission's Rules, Statement of Organization, Delegations of Authority and Other Information is hereby amended, effective March 27, 1957 as set forth below.

Released: March 28, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend section 0.45 to read as follows:

SEC. 0.45 *Engineering Division.* The Engineering Division is responsible for all functions indicated in section 0.41 insofar as technical engineering standards and evaluations are required, for the determination of technical equipment and facilities requirements of the field offices and monitoring stations in performing these functions, and for the provision of such equipment and facilities; for the administration of Part 17 of the Commission's rules (47 CFR Part 17) governing construction marking and lighting of antenna structures, including the processing of data concerning proposed new or modified antenna construction to insure no hazard to air navigation results from the proposed construction; and the maintenance of liaison with the Office of the Chief Engineer with respect to technical engineering matters.

2. Amend section 0.47 to read as follows:

SEC. 0.47 *Monitoring Division.* The Monitoring Division exercises staff responsibility for standards, techniques and facilities in monitoring and investigative procedures required to effectuate the Communications Act; administers Parts 15 and 18 of the Commission's rules (47 CFR Parts 15 and 18) relative to equipment, interference and related problems involving the devices and equipment regulated by these parts; and maintains liaison with governmental organizations such as CIA, CAA, the military, etc., pertaining to monitoring operations.

[F. R. Doc. 57-2531; Filed, Apr. 1, 1957; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24NY-3508-1]

NORTH STAR OIL AND URANIUM CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS, AND NOTICE OF OPPORTUNITY FOR HEARING

MARCH 27, 1957.

I. North Star Oil and Uranium Corporation, a Delaware corporation, of 295

Madison Avenue, New York 17, New York, filed with the Commission on October 23, 1953 a notification on Form 1–A and an offering circular, and subsequently filed amendments thereto, relating to a proposed public offering of 600,000 shares of common stock, par value 5 cents, at 50 cents per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable grounds to believe that the offering circular is false and misleading in that:

A. The issuer represents that its subsidiary, North Star Mines, Ltd., owns certain mining claims, when title to some of such claims had already lapsed; and

B. The issuer represents specific times limited for completion of assessment work on the aforesaid mining claims, when title to some of such claims had lapsed prior to the times stated.

III. *It is ordered*, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933 as amended that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that within twenty (20) days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing, and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

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

[F. R. Doc. 57–2496; Filed, Apr. 1, 1957; 8:46 a. m.]

[File No. 24NY–4041]

MID-HUDSON NATURAL GAS CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS, AND NOTICE OF OPPORTUNITY FOR HEARING

MARCH 27, 1957.

I. Mid-Hudson Natural Gas Corporation, a Delaware corporation, of 295 Madison Avenue, New York 17, New York, on July 1, 1955 filed with the Commission a notification on Form 1–A and an offering circular, and subsequently filed amendments thereto, relating to a proposed public offering of 500,000 shares of the company's common stock, par value 5 cents, at 50 cents per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof, and Regulation A, promulgated thereunder.

II. The Commission has reasonable grounds to believe that the offering circular as filed and amended contains false and misleading statements and fails to state material facts necessary to make the statements made not misleading, in that said offering circular:

A. Represents that the 575,000 shares of the company's stock stated to have been issued to two persons for the assignment to the company of certain oil and gas leases by them constituted the consideration for the transfer of such leases;

B. Fails to state that the consideration for the assignment of the aforesaid leases agreed upon by the assignors was less than the number of shares represented to have been the consideration; and

C. Represents that the transfer of certain shares stated to have been made to one Sidney Lieberman, individually and as trustee of certain trusts, by the assignors of the aforesaid leases were made for a consideration of one mill per share;

It is ordered, That pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, that the exemption under Regulation A be, and it hereby is temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that within twenty (20) days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing, and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

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

[F. R. Doc. 57–2497; Filed, Apr. 1, 1957; 8:46 a. m.]

[File No. 812–1071]

DIVERSIFIED INVESTMENT FUND, INC.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION OF PURCHASE OF SECURITIES DURING EXISTENCE OF UNDERWRITING SYNDICATE

MARCH 27, 1957.

Notice is hereby given that Diversified Investment Fund, Inc. ("Applicant"), a registered open-end diversified investment company, has filed an application pursuant to the Investment Company Act of 1940 ("act"), for an order of the Commission exempting from the provisions of section 10 (f) of the act, the proposed purchase by the Applicant of not to exceed $600,000 principal amount of Sinking Fund Debentures due 1980 of Aluminum Company of Canada, Ltd. ("Alcan").

The application recites that Alcan is proposing a public offering of $125,000,000 principal amount of Sinking Fund Debentures, due 1980; that Dick & Merle-Smith, an investment banking firm, expects to be among a group of investment bankers who expect to underwrite such public offering; and that Julian K. Roosevelt, one of the nine directors of Applicant is a partner of, and therefore an affiliated person of, Dick & Merle-Smith.

Applicant proposes such purchase subject to market conditions at the time of such purchases, at the public offering price and from any of the underwriters or members of the selling group, except that no such purchase shall be made from Dick & Merle-Smith.

If the Applicant were to purchase the entire $600,000 principal amount of Debentures as proposed, it would acquire less than one-half of 1 percent of the total offering, and assuming a price of 100 percent the purchase would represent an investment of 1 percent of the total assets of the Applicant as at March 21, 1957.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer or director of such registered company or is a person of which any such officer or director is an affiliated person. The Commission may exempt a transaction from this prohibition if and to the extent that such exemption is consistent with the protection of investors. Since a partner of Dick & Merle-Smith, a participant in the underwriting group, is a director of the Applicant, the proposed purchase is prohibited by the provisions of section 10 (f) unless the Commission finds that the proposed acquisition of securities is consistent with the protection of investors.

Notice is further given that any interested person may, not later than April 11, 1957, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

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

[F. R. Doc. 57–2498; Filed, Apr. 1, 1957; 8:46 a. m.]

[File No. 70-3557]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

ORDER AUTHORIZING ISSUE AND SALE BY SUBSIDIARIES OF PROMISSORY NOTES TO BANKS AND TO PARENT COMPANY

MARCH 26, 1957.

A joint application-declaration and amendments thereto have been filed with this Commission, pursuant to sections 7, 10, and 12 of the Public Utility Holding Company Act of 1935 ("the act") and Rule U-43 promulgated thereunder by New England Electric System ("NEES"), a registered holding company, and twenty-two of its public-utility subsidiary companies, namely, Amesbury Electric Light Company ("Amesbury"), Attleboro Electric Company ("Attleboro"), Central Massachusetts Gas Company ("Central Mass."), Essex County Electric Company ("Essex"), Granite State Electric Company ("Granite"), Haverhill Electric Company ("Haverhill"), Lawrence Electric Company ("Lawrence"), Lawrence Gas Company ("Lawrence Gas"), The Lowell Electric Light Corporation ("Lowell"), The Mystic Power Company ("Mystic"), Mystic Valley Gas Company ("Mystic Valley"), Northampton Electric Lighting Company ("Northampton"), Northampton Gas Light Company ("Northampton Gas"), North Shore Gas Company ("North Shore"), Northern Berkshire Electric Company ("Northern"), Norwood Gas Company ("Norwood"), The Pequot Gas Company ("Pequot"), Quincy Electric Company ("Quincy"), Southern Berkshire Power & Electric Company ("Southern"), Surburban Electric Company ("Suburban"), Wachusett Gas Company ("Wachusett"), and Weymouth Light and Power Company ("Weymouth") (hereinafter collectively referred to as "the borrowing companies") regarding the following proposed transactions:

The borrowing companies propose to issue, from time to time but not later than June 30, 1957, unsecured promissory notes (a) to banks in the aggregate principal amount of $28,522,000 and (b) to NEES in the aggregate principal amount of $13,290,000 or a total of $41,812,000. Most of the proceeds of the notes will be employed to pay notes previously issued and which mature March 29, 1957, with new money requirements of the borrowing companies to June 30, 1957 estimated at $4,755,000. During the period to June 30, 1957 the issuance of an aggregate amount of $20,500,000 of permanent securities is contemplated by the borrowing companies. The maximum amount of the proposed notes to be outstanding at any one time (a) with banks will not exceed $28,522,000 and (b) with NEES will not exceed $13,365,000 and (c) with the total at all times limited to $34,527,000. Each of such notes will mature in not more than six months from the issue date thereof and will bear interest at the prime rate of interest charged by banks for similar notes at the time of issuance thereof. It is stated that the present prime rate of interest is 4 percent.

The following table shows for each borrowing company (1) the aggregate amount of notes proposed to be issued to banks and to NEES, and (2) the maximum amount of notes to be outstanding with banks and with NEES at any one time.

(000's omitted)	Aggregate amount of notes proposed to be issued		Maximum amount of notes to be outstanding		
	Banks	NEES	Banks	NEES	Banks or NEES
Amesbury	$825	$500	$675	$350	$150
Attleboro	570	570			570
Central Massachusetts	600		600		
Essex	3,250		3,250		
Granite	900		900		
Haverhill	3,000		3,000		
Lawrence	950	5,725		4,775	950
Lawrence Gas	1,500		1,500		
Lowell	1,600		1,600		
Mystic	125		125		
Mystic Valley	2,650		2,650		
Northampton	570		570		
Northampton Gas		400		400	
North Shore	615		615		
Northern	990	915			990
Norwood		480		480	
Pequot	52		52		
Quincy	1,850	1,850			1,850
Southern	1,275		1,275		
Suburban	3,950		3,950		
Wachusett	400		400		
Weymouth	2,850	2,850			2,850
Totals	28,522	13,290	21,162	6,005	7,360

While no definite arrangements have yet been made by any of the borrowing companies, it is expected that borrowings from banks will be made from any one or more of the following:

The First National Bank of Boston, Boston, Massachusetts.

Second Bank-State Street Trust Company, Boston, Massachusetts.

The Chase Manhattan Bank, New York.

The Hanover Bank, New York.

Irving Trust Company, New York.

The New York Trust Company, New York.

The First National City Bank of New York.

Hartford National Bank & Trust Company, Hartford, Connecticut (Mystic River Branch).

First National Bank, Northampton, Massachusetts.

Northampton National Bank, Northampton, Massachusetts.

Granite National Bank, Quincy, Massachusetts.

Norfolk County Trust Company, Quincy, Massachusetts.

Quincy Trust Company, Quincy, Massachusetts.

Haverhill National Bank, Haverhill, Massachusetts.

The Andover and Merrimac National Bank, Haverhill, Massachusetts.

First National Bank, Adams, Massachusetts.

Greylock National Bank, Adams, Massachusetts.

North Adams National Bank, North Adams, Massachusetts.

North Adams Trust Company, North Adams, Massachusetts.

First National Bank, Malden, Massachusetts.

Malden Trust Company, Malden, Massachusetts.

Middlesex County National Bank, Everett, Massachusetts.

Union National Bank, Lowell, Massachusetts.

Arlington Trust Company, Lawrence, Massachusetts.

Bay State Merchants National Bank, Lawrence, Massachusetts.

Attleboro Trust Company, Attleboro, Massachusetts.

First National Bank, Attleboro, Massachusetts.

Merchants National Bank, Salem, Massachusetts.

Naumkeag Trust Company, Salem, Massachusetts.

Incidental services in connection with the proposed note issues will be performed at cost by New England Power Service Company, an affiliated service company, such cost being estimated not to exceed $200 for each applicant-declarant, or an aggregate of $4,600.

The Public Utilities Commission of New Hampshire has authorized the borrowing proposed by Granite and the joint application-declaration states that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of the joint application-declaration having been given in the manner prescribed by Rule U-23 (Holding Company Act Release No. 13411) and no hearing having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and of the rules promulgated thereunder are satisfied, and that the joint application-declaration, as amended, should be granted and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said joint application-declaration, as amended, be, and the same hereby is, granted and 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. 57—2466; Filed, Mar. 29, 1957; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 28, 1957.

Protests to the granting of an application must be prepared in accordance with

Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 33461: *Phosphate rock—Florida mines to Louisiana and Texas.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on phosphate rock, carloads, from Bartow, Fla., and other Florida points to specified points in Louisiana and Texas.

Grounds for relief: Rail-barge-rail competition and circuitous routes.

Tariff: Supplement 40 to Agent Spaninger's tariff I. C. C. 1514.

FSA No. 33462: *Foreign woods from and to North Carolina and Virginia points.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on lumber, logs, flitches and piling, dimension stock, and built-up woods of foreign woods, carloads from Norfolk, Va., and Wilmington, N. C., to Bassett and Martinsville, Va., and specified points in North Carolina.

Grounds for relief: Short-line distance formula, and circuitous routes.

Tariff: Supplement 68 to Agent Spaninger's tariff I. C. C. 1356.

FSA No. 33463: *Substituted service-motor-rail-motor, Pennsylvania Railroad.* Filed by Central States Motor Freight Bureau, Inc., Agent, for The Pennsylvania Railroad Company, and interested motor carriers. Rates on freight loaded on highway trailers and transported on railroad flat cars between Cleveland, Ohio and Chicago and East St. Louis, Ill., also between Indianapolis, Ind., and East St. Louis, Ill.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau, Inc., Agent, tariff MF–I. C. C. No. 857.

FSA No. 33464: *Fertilizer solutions—between southwest and official territory.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on fertilizer solutions, tankcar loads between points in southwestern territory, on the one hand, and points in official territory, on the other.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 200 to Agent Kratzmeir's tariff I. C. C. 4112.

FSA No. 33465: *Iron and steel articles—Louisana and Texas to Louisville, Ky.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on iron and steel articles, carloads from Shreveport, La.-Dallas, Tex., and other specified points in Texas to Louisville, Ky.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 100 to Agent Kratzmeir's tariff I. C. C. 4170.

FSA No. 33466: *Superphosphate—Atlas, Mo., to Waukee, Iowa.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on superphosphate, carloads from Atlas, Mo., to Waukee, Iowa.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 202 to Agent Kratzmeir's tariff I. C. C. 4112.

FSA No. 33467: *Bananas—Louisiana and Texas Gulf ports to Milan, Ill.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on bananas, carloads from Lake Charles, La., Beaumont, Galveston, Houston, Orange, Port Arthur, and Texas City, Tex., (applicable on import traffic) to Milan, Ill.

Grounds for relief: Maintenance of destination group relations and circuitous routes.

Tariff: Supplement 24 to Agent Kratzmeir's tariff I. C. C. 3900.

FSA No. 33468: *Seeds—Pacific Coast and Montana points to Alabama.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on seeds, carloads, as described in item 2160–D of the tariff, listed below, from Pacific Coast points taking rate basis 1 or 4 or arbitraries higher in the schedule listed below to Boylston, Madison Park, and Montgomery, Ala.

Grounds for relief: Circuitous routes in part through higher-rated destination groups.

Tariff: Supplement 31 to Agent Prueter's tariff I. C. C. 1577.

FSA No. 33469: *Phosphate rock—Florida mines to Acme, N. C.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on crude phosphate rock, other than ground, carloads from Bartow, Fla., and other points in Florida to Acme, N. C.

Grounds for relief: Rail-truck competition, and circuitous routes.

Tariff: Supplement 40 to Agent Spaninger's tariff I. C. C. 1514.

FSA No. 33470: *Scrap paper—Calhoun, Tenn., to Halltown, W. Va.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on paper, scrap or waste, carloads from Calhoun, Tenn., to Halltown, W. Va.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 38 to Agent Spaninger's tariff I. C. C. 1496.

FSA No. 33471: *Iron pipe and fittings—Southern points to Cloquet, Minn.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on cast iron pipe, fittings, and related articles, carloads from specified points in southern territory to Cloquet, Minn.

Grounds for relief: Circuitous routes.

Tariff: Supplement 112 to Agent Spaninger's tariff I. C. C. 1374.

FSA No. 33472: *Transformers and parts—West Rome, Ga., to official territory.* Filed by St. Louis-San Francisco Railway Company for itself and other interested rail carriers. Rates on electric transformers and transformer parts, noibn, carloads from West Rome, Ga., to specified points in official (including Illinois) territory.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 33473: *Glass jars—Oklahoma points to Baton Rouge and New Orleans, La.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on glass jars, noibn, carloads from Ada, Blackwell, Muskogee, Okmulgee, and Sand Springs, Okla., to Baton Rouge and New Orleans, La.

Grounds for relief: Circuitous routes.

Tariff: Supplement 89 to Agent Kratzmeir's tariff I. C. C. 4015.

FSA No. 33474: *Potatoes—Pacific Coast points to Alabama.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on potatoes, other than sweet, carloads from points on and intermediate to the Pacific Coast as described in the application to Boylston, Madison Park, and Montgomery, Ala.

Grounds for relief: Circuitous routes through higher-rated destination groups.

Tariff: Supplement 38 to Agent Prueter's tariff I. C. C. 1572.

FSA No. 33475: *Scrap paper—Atlanta and Columbus, Ga., to Coldwater, Ala.* Filed by O. W. South, Jr., Agent, for carriers parties to schedule listed below. Rates on scrap or waste paper, carloads from Atlanta and Columbus, Ga., to Coldwater, Ala.

Grounds for relief: Circuitous routes.

Tariff: Supplement 38 to agent Spaninger's tariff I. C. C. 1496.

FSA No. 33476: *Creosote oil—Chattanooga, Tenn., to East Point and Macon, Ga.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on creosote oil, carloads from Chattanooga, Tenn., to East Point and Macon, Ga.

Grounds for relief: Circuitous routes.

Tariff: Supplement 41 to Agent Spaninger's tariff I. C. C. 1548.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57–2504; Filed, Apr. 1, 1957; 8:47 a. m.]

[No. MC–C–1984 etc.]

IRON AND STEEL

RATES AND CHARGES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of March A. D. 1957

Iron or Steel Articles—Middlewest Territory, 1957, MC–C–1984; Iron and Steel Articles from Chicago to Sioux City, MC–C–1887; Investigation and Suspension Docket No. M–8118, Iron or Steel Articles—W. T. L. Territory; Investigation and Suspension Docket No. M–8142, Iron and Steel—Kansas City, Mo., to Colorado; Investigation and Suspension Docket No. M–8307, Iron and Steel—Kansas City, Mo., to Kansas.

There being under consideration the rates and charges by motor carriers on iron or steel articles between points in various States, and the records in I. & S. Docket Nos. M–8118, M–8142 and M–8307, and MC–C–1887, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted, by the Commission, upon its own motion into and concerning the reasonableness and lawfulness otherwise, of the rates, charges, and regulations maintained by motor carriers for the transportation in interstate or foreign commerce of iron and steel, and iron or steel articles between points in Illinois, Wisconsin, Minnesota,

Missouri, Kansas, Iowa, Nebraska, North Dakota, South Dakota, Indiana (Chicago territory), Michigan (upper peninsula), and Colorado common point territory, with a view to making such findings and entering such order or orders or taking such other action as the facts and circumstances shall appear to warrant.

It is further ordered, That No. MC–C–1887 and I. & S. Nos. M–8118 and M–8142 be, and they are hereby, reopened for further hearing.

It is further ordered, That I. & S. Nos. M–8118, M–8142, and M–8307, and MC–C–1887 be, and they are hereby, consolidated with No. MC–C–1984.

It is further ordered, That the petitions of Laclede Steel Company and Keystone Steel and Wire Company in I. & S. Docket Nos. M–8118 and M–8142, dated January 7, 1957, for reconsideration; of Laclede Steel Company to make order of suspension in I. & S. Docket No. M–8307 a part of the record in the foregoing proceedings; and of Wheelock Bros., Inc., in I. & S. Docket No. M–8307, dated January 21, 1957, for vacation of the order of suspension therein, be, and they are hereby, denied, for the reason that the issues in those proceedings are embraced within the issues in the general investigation in No. MC–C–1984.

It is further ordered, That all common and contract carriers by motor vehicle engaged in the transporation described in the first ordering paragraph of this order be, and they are hereby, made respondents in No. MC–C–1984; that a copy of this order be forthwith served upon the said respondents; and that a notice of this proceeding be given to the public by posting a copy of this order in the Office of the Secretary of the Commission, and by filing a copy with the Director, Division of Federal Register.

And it is further ordered, That these proceedings be assigned for hearing at such times and places as may hereafter be fixed.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57–2505; Filed, Apr. 1, 1957; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–10318, G–10321]

ATLANTIC REFINING CO. AND SHELL OIL CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MARCH 26, 1957.

In the matters of the Atlantic Refining Company, Docket No. G–10318; Shell Oil Company, Docket No. G–10321.

Take notice that The Atlantic Refining Company (Atlantic) with its principal place of business in Dallas, Texas, and Shell Oil Company (Shell) with its principal place of business in New York, New York, filed on April 27, 1956, separate applications in Docket Nos. G–10318 and G–10321, respectively, for certificates of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing each of them to sell natural gas, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully presented in the separate applications, which are on file with the Commission and open to public inspection. Shell's application was supplemented on December 19, 1956.

Both Atlantic and Shell propose to sell casinghead gas from production in and about the South Andrews Field, Andrews County, Texas, to El Paso Natural Gas Company (El Paso) for transportation in interstate commerce for resale. The sale proposed by Atlantic in Docket No. G–10318 is pursuant to a contract with El Paso dated February 13, 1956. The sale proposed by Shell in Docket No. G–10321 is pursuant to a contract with El Paso dated January 31, 1956, as amended and supplemented November 28, 1956.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 7, 1957 at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 19, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–2494; Filed, Apr. 1, 1957; 8:45 a. m.]

[Docket No. G–11657]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

MARCH 26, 1957.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation with its principal place of business in Omaha, Nebraska filed, on December 26, 1956, an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act authorizing Applicant to provide firm natural gas service to an existing customer for resale to an industrial consumer, as hereinafter described, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 623 Mcf of natural gas per day on a firm basis to Minneapolis Gas Company for resale to the Minneapolis Moline Company (Moline), in Minneapolis, Minnesota, such gas to be a part of the 250,000 Mcf per day Applicant is now authorized to sell to Minneapolis Gas Company.

The application states that Moline uses gas for baking, drying and heat treating of materials used in the manufacture of farm machinery and internal combustion engines, and that by reason of the volume of its requirements, Moline is classified as a step 5 interruptible customer under Applicant's Tariff and is curtailed as such by Applicant when Northern orders step 5 curtailment of Minneapolis Gas Company, deliveries to Moline cannot be curtailed, and it is necessary for Minneapolis Gas Company to operate its peak shaving facilities to meet the requirements of Moline.

Applicant states that the proposed service will aid Minneapolis Gas Company in the operation of its distribution system and, by eliminating the sale of peak shaving gas to Moline, will result in an estimated annual saving of $5,460, with an estimated additional revenue to Applicant of aproximately $1,600. No additional facilities are proposed.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 15, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–2495; Filed, Apr. 1, 1957; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ORESTE BIGINELLI

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following prop-

erty located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Oreste Biginelli, Clermont-Ferrand, Puy de Dome, France; Claim No. 42247; property described in Vesting Order No. 1026 (8 F. R. 4204; April 2, 1943) relating to Patent Application Serial No. 435,234; and United States Letters Patent No. 2,592,593, which was issued on Patent Application Serial No. 25,694, a continuation in part of Patent Application Serial No. 435,234.

Executed at Washington, D. C., on March 22, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2508; Filed, Apr. 1, 1957; 8:48 a. m.]

ERNEST BLEIBLER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Ernest Bleibler, 42, rue Charles Quint, Gand, Belgium; Claim No. 37607; property described in Vesting Order No. 675 (8 F. R. 5029; April 17, 1943) relating to United States Letters Patent Nos. 2,264,357 and 2,286,595.

Executed at Washington, D. C., on March 22, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2509; Filed, Apr. 1, 1957; 8:48 a. m.]

G. J. W. VAN OS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

G. J. W. van Os, 226 Ceintuurbaan III, Amsterdam, Zuid, The Netherlands; Claim No. 60668; Vesting Orders Nos. 17915 and 17947; $387.82 in the Treasury of the United States; and 10 shares of ten cents par value common stock of Keta Gas and Oil Corporation and 7 shares of $5 par value common stock of Swan Finch Oil Corporation, presently in the custody of the Federal Reserve Bank, New York, New York.

Executed at Washington, D. C., on March 22, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2511; Filed, Apr. 1, 1957; 8:49 a. m.]

MARIE HERRMANN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Marie Herrmann, Kempten, Germany; Vesting Order No. 3657; Claim No. 66468; $26,480.66 in the Treasury of the United States.

Executed at Washington, D. C., on March 22, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2510; Filed, Apr. 1, 1957; 8:49 a. m.]

GEORGES BOULET

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Georges Boulet, Toulouse, France; Claim No. 38716; Vesting Orders Nos. 293 and 666; property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942), relating to United States Patent Application Serial No. 304,834 (now United States Letters Patent No. 2,387,560) and to United States Patent Application Serial No. 330,429. Property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent No. 2,252,480.

Executed at Washington, D. C., on March 27, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2513; Filed, Apr. 1, 1957; 8:49 a. m.]

ANNA SCHMICH

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anna Schmich, Mannheim, Germany; Claim No. 39948; Vesting Order No. 769; $4,898.31 in the Treasury of the United States.

Executed at Washington, D. C., on March 22, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2512; Filed, Apr. 1, 1957; 8:49 a. m.]

HANNA VON GRABMAYR

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Hanna von Grabmayr, Bad Hofgastein 273, Austria; Claim No. 62083; Vesting Order No. 17702; $11,214.91 in the Treasury of the United States.

Executed at Washington, D. C., on March 27, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2514; Filed, Apr. 1, 1957; 8:49 a. m.]

JORGE FRANKE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mr. Jorge Franke, Casilla 6090, Santiago de Chile; Claim No. 57113; Vesting Order No. 104; $151.46 in the Treasury of the United States.

Executed at Washington, D. C., on March 27, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2515; Filed, Apr. 1, 1957; 8:49 a. m.]