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TITLE 3—THE PRESIDENT

PROCLAMATION 3193

IMPOSING IMPORT RESTRICTIONS ON CERTAIN ARTICLES CONTAINING BUTTERFAT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U. S. C. 624), the Secretary of Agriculture advised me there was reason to believe that certain articles containing butterfat, the butterfat content of which is commercially extractable, or which are capable of being used for any edible purpose for which products containing butterfat are used, are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which such program of the Department of Agriculture is being undertaken;

WHEREAS, on May 21, 1957, under the authority of the said section 22, I caused the United States Tariff Commission to make an investigation with respect to this matter;

WHEREAS, in accordance with the said section 22, as implemented by Exexutive Order No. 7233 of November 23, 1935, the said Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith;

WHEREAS, on the basis of the said investigation and report of the said Tariff Commission, I find that the articles with respect to which import restrictions are hereinafter proclaimed are being or are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the said price-support program with respect to milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which said price-support program is being undertaken;

WHEREAS I find and declare that the import restrictions hereinafter proclaimed are shown by such investigation of the said Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of the said articles will not materially interfere with the said price-support program or reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which the said price-support program is being undertaken; and

WHEREAS I find that there is no representative period, within the meaning of the first proviso to subsection (b) of the said section 22, for imports of the said articles:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22, do hereby proclaim that, effective at the close of business August 7, 1957 and thereafter, articles containing 45 percent or more of butterfat or of butterfat and other fat or oil, the butterfat content of which is commercially extractable, or which are capable or being used for any edible purpose for which products containing butterfat are used, shall not be permitted to be entered, or withdrawn from warehouse, for consumption: *Provided*, That this limitation shall not apply to the following articles:

1. Articles the importation of which is restricted under quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended.

2. Cheeses the importation of which is not restricted by quotas established pursuant to the said section 22.

3. Evaporated milk and condensed milk.

4. Products imported packaged for distribution in the retail trade and ready for use by the purchaser at retail for an edible purpose or in the preparation of an edible article.

5. Articles containing butterfat and other fat or oil, if the importer establishes to the

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satisfaction of the collector of customs that the butterfat content thereof is less than 45 percent.

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 seventh day of August 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-second.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-6600; Filed, Aug. 8, 1957; 2:42 p. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.327]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts*, is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following August 10, 1957, paragraph (a) is amended by the deletion of the following:

Mogadiscio, Somalia.
Saint Maarten Island, N. W. I.

2. Effective as of the beginning of the first pay period following December 15, 1956, paragraph (a) is amended by the addition of the following:

Pingtung, Taiwan, China.

3. Effective as of the beginning of the first pay period following May 4, 1957, paragraph (a) is amended by the addition of the following:

Thakhek, Laos.

4. Effective as of the beginning of the first pay period following August 10, 1957, paragraph (a) is amended by the addition of the following:

Mogadiscio, Trust Territory of Somaliland.
Saint Maarten Island, Netherlands Antilles.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

For the Acting Secretary of State.

[SEAL] LOY W. HENDERSON,
Deputy Under Secretary for Administration.

AUGUST 1, 1957.

[F. R. Doc. 57-6549; Filed, Aug. 9, 1957; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter D—Regulations Under Soil Bank Act

PART 485—SOIL BANK

SUBPART—ACREAGE RESERVE PROGRAM

The regulations in §§ 485.301 to 485.338 contain the general provisions governing the 1958 acreage reserve part of the Soil Bank Program. Additional program provisions relating specifically to winter wheat are contained in Supplement I to these regulations. Additional program provisions relating specifically to spring wheat and other spring-planted commodities will be contained in a later supplement to these regulations.

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AUTHORITY: § 485.301 to § 485.338 issued under sec. 124, 70 Stat. 198; 7 U. S. C. 1812. Interpret or apply secs. 101–107, 114–126, 70 Stat. 188; 7 U. S. C. 1801–1813, 1821–1824, 1831.

§ 485.301 *Definitions.* As used in §§ 485.301 to 485.338 and in all agreements, forms, documents and procedures in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

(a) "Act" means the Soil Bank Act (70 Stat. 188; 7 U. S. C. 1801).

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

(c) "Administrator" means the Administrator, or Acting Administrator, Commodity Stabilization Service, United States Department of Agriculture.

(d) "Deputy Administrator" means the Deputy Administrator, or Acting Deputy Administrator, Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(e) "Director" means the Director, or Acting Director, of the Soil Bank Division, Commodity Stabilization Service, United States Department of Agriculture.

(f) "State" means any one of the continental United States.

(g) "County" means county or parish.

(h) "Community committee" means the group of persons elected within a community as the community committee pursuant to the regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended.

(i) "County committee" means the group of persons elected within a county as the county committee pursuant to the regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended.

(j) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, wherever applicable, a State, a political subdivision of a State or any agency thereof.

(l) "Cash tenant," "standing-rent tenant," or "fixed-rent tenant" means a person who rents land from another for a fixed amount of cash or a fixed amount of a commodity to be paid as rent.

(m) "Share tenant" means a person other than a sharecropper who rents land from another person and pays as rent a share of the crop or the proceeds thereof.

(n) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the crops produced thereon or the proceeds thereof.

(o) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(p) "Producer" means any person who is an owner or a landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, sharecropper, or in the case of rice, a person who furnishes water for a share of the crop.

(q) "Farm" means farm as defined in regulations governing Determination of Acreage and Performance (22 F. R. 3747).

(r) "Cropland" means cropland as defined in regulations governing Determination of Acreage and Performance (22 F. R. 3747).

(s) "Commercial corn-producing area" means the area designated by the Secretary for the 1958 crop of corn pursuant to section 327 of the Agricultural Adjustment Act of 1938, as amended.

(t) "Commercial wheat-producing area" means all areas except the area designated by the Secretary (22 F. R. 2905) pursuant to section 335 (e) of the Agricultural Adjustment Act of 1938, as amended.

(u) "Commodity" means any one of the commodities eligible for participation in the Acreage Reserve Program for 1958.

(v) "Allotment" means the 1958 acreage allotment established for a farm for a particular commodity pursuant to the Agricultural Adjustment Act of 1938, as amended.

(w) "Acreage reserve" means the tract or tracts of cropland designated in an acreage reserve agreement for a farm as being withdrawn from the production of a particular commodity.

(x) "Agreement" means Form CSS–800 (Soil Bank), "Soil Bank 1958 Acreage Reserve Agreement."

(y) Words in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 485.302 *Purpose of the acreage reserve program.* The purpose of the acreage reserve program is to assist producers to divert a portion of their cropland from the production of excessive supplies of agricultural commodities by compensating them for reducing their acreage below their allotment.

§ 485.303 *Administration.* The 1958 acreage reserve program will be administered by the Commodity Stabilization Service under the general direction and supervision of the Administrator. Any authority herein delegated to the Administrator may also be exercised by the Deputy Administrator. The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations contained in §§ 485.301 to 485.338. Such forms and instructions shall be approved by, and the instructions shall be issued by, the Administrator. In the field, the program will be carried out by State and county committees. Members of county committees are hereby authorized to sign agreements on behalf of the Secretary. State and county committees do not have authority to modify or waive any of the provisions of §§ 485.301 to 485.338, or of any amendment, supplement, or revision thereto, or to modify or waive any of the provisions of any agreement, or to enter into any revised agreement except to the extent that revision is hereinafter specifically authorized.

§ 485.304 *State and county allocations of funds*—(a) *General.* To give producers a fair and equitable opportunity to participate in the acreage reserve program, State and county allocations of amounts which may be obligated for each commodity shall be established to govern the extent of participation by producers in each State and county.

(b) *State allocations of funds.* The State allocations for each commodity, determined after taking into consideration the State acreage allotments, productivity of land, the estimated extent of participation in the program by farmers, the supply and demand conditions for different classes, grades, and quality of the commodity produced in the several States, distance from markets, and historic market prices, will be specified in the supplement covering the particular commodity. Any portion of the allocation for any State may be reapportioned by the Administrator to any one or more other States if it is determined by him that such action is necessary to achieve the national acreage goal or to give producers a fair and equitable opportunity to participate.

(c) *County allocations of funds.* (1) County allocations shall be determined by the State committee, taking into consideration the county acreage allotments, productivity of land, and the estimated extent of participation in the program by farmers, subject to such limitations as the Administrator may determine are necessary to achieve the national goal, to give producers a fair and equitable opportunity to participate, or to prevent serious adverse effect on the economy of any county or area.

(2) Any portion of the allocation for any county may be reapportioned by the State committee to one or more other counties if the State committee determines that such action is necessary to utilize the funds allocated to the State or to give producers a fair and equitable opportunity to participate, subject to such limitations as may be determined by the Administrator in accordance with subparagraph (1) of this paragraph.

§ 485.305 *"New farm allotments"; "new producers", not eligible.* Producers

on farms which receive allotments as "new farms" under regulations governing the establishment of acreage allotments for 1958 crops shall not be eligible for participation in the acreage reserve program with respect to such "new farm" allotments. In the case of rice, producers who receive allotments as "new producers" under regulations governing the establishment of allotments for the 1958 crop of rice shall not be eligible to participate with respect to such rice allotments.

§ 485.306 *Restrictions on Government land and on Government sharing in compensation*—(a) *Restrictions on Government land.* Producers who lease lands from the Federal Government, or any agency thereof, under a lease prohibiting the use of such lands for the production of a commodity, or requiring the use of the land for other purposes, shall not be eligible to participate in the acreage reserve program for such commodity with respect to such lands.

(b) *Restrictions on Government compensation.* The Federal Government, or any agency thereof, is not eligible to share in any compensation payable under any agreement, except that the Federal Government, or any agency thereof, may be paid as a result of setoff, or assignment, or designation as payee because of a lien or encumbrance on a growing crop.

§ 485.307 *Agreement not to be approved if reduction would occur without Soil Bank.* The county committee shall not approve an agreement for any farm if the county committee determines that the reduction in the acreage of the commodity involved would occur even in the absence of participation in the acreage reserve program.

§ 485.308 *Maximum acreage limitations on extent of participation.* Participation with respect to any farm shall be subject to the following maximum acreage limitations:

(a) The acreage for any commodity may not exceed the farm allotment for the commodity.

(b) The acreage for all commodities on the farm may not exceed the farm soil bank base less the number of acres in the conservation reserve at the regular rate. This limitation shall not apply in the case of any farm which during 1957 participated in both the acreage reserve program and the conservation reserve program.

(c) In the case of spring wheat, the acreage may not exceed the farm allotment less (1) the number of acres, if any, on the farm placed in the acreage reserve under an agreement covering winter wheat, and (2) the number of acres, if any, planted to wheat in the fall of 1957 on land on the farm (excluding the number of acres planted on any such acreage reserve).

(d) Any other limitations specified in the supplement covering the particular commodity.

§ 485.309 *Acreage reserve agreement*—(a) *General.* In order for the producers on a farm to participate in the program, an acreage reserve agreement (Form CSS–800) must be signed by the farm operator and all owners and landlords required to sign as specified in paragraph (b) of this section. Such agreement must be filed by delivery of it to the office of the county committee for the county or administrative area in which the farm is located on or before the closing date specified in the supplement covering the particular commodity to which the agreement applies. The agreement must be approved and signed by a member of the county committee in order for the agreement to become effective.

(b) *Signatures of owners and landlords*—(1) *Signatures required.* Except as provided in subparagraph (2) of this paragraph, if the operator is a share tenant, the agreement must be signed, prior to approval by the county committee, by each owner or landlord.

(2) *Signatures not required.* (i) The county committee may, upon request of the operator, approve the agreement without the signature of an owner or landlord if the county committee determines (*a*) that the acreage reserve is not located on his land (*b*) that no reduction in the acreage of the commodity is being made on his land, and (*c*) that he is not eligible to receive any compensation under the agreement.

(ii) The county committee may, upon request of the operator, approve the agreement without the signature of an owner or landlord if the county committee determines that such owner or landlord is not available for signing an agreement by the closing date, provided it is established to the satisfaction of the county committee that such owner or landlord has no right to graze or harvest a crop on the acreage reserve or otherwise to control the farming operations on the farm, and the county committee has no reason to believe that the owner or landlord is unwilling to sign the agreement. (In any such case, however, the owner or landlord, in order to be eligible for compensation under the agreement, must sign the agreement on or before December 31, 1958.)

(3) *Final date for signature of owner or landlord.* The agreement must be signed by the owner or landlord not later than the closing date, except that if the county committee determines that an owner or landlord is not available for the signing of the agreement by the closing date, the operator must obtain the signature of such owner or landlord on the agreement and furnish it to the county committee not later than 15 days after the closing date or within such earlier period of time as may be specified by the county committee in a written notice to the operator.

(c) *Late notice of allotment.* If the first official notice of the farm allotment for a commodity is dated later than 15 days prior to the closing date, the producer shall have 15 days from the date of such notice to file an agreement for the commodity, except that such producer may not file an agreement after November 30, 1957, in the case of winter wheat, April 30, 1958, in the case of rice in states having producer allotments, and May 31, 1958, in the case of spring crops other than rice in states having producer allotments.

(d) *Order of approval of agreements.* To the extent of funds allocated to a county, agreements shall be approved on a "first-come, first-served" basis, i. e., in the order in which they are filed with the county committee.

(e) *County funds exhausted.* If the county allocation of funds is not sufficient to cover the agreement at the time the producers on a farm wish to file an agreement, the operator's name and the acreage which the operator desires to place in the acreage reserve shall be entered on a register in the county office. If the county thereafter receives an additional allocation of funds sufficient to cover such agreement the producers shall have until 15 days after date of written notice to the operator to file an agreement.

(f) *Agreements covering additional acreage.* If acreage limitations in addition to those contained in § 485.308 are set forth in the applicable supplement and fund allocations to the county for a commodity are in an amount in excess of that required to cover all agreements filed with the county committee for an acreage of such commodity within such limitations, producers who have indicated on the agreement a desire to place more than such maximum acreage in the program, or who have indicated in writing to the county committee a desire to participate only if they may place acreage in excess of such maximum acreage in the program, will be permitted to place acreage in the program to the extent authorized by the Administrator. The producers shall have until 15 days after date of written notice to the operator to file an agreement covering such acreage.

(g) *Termination or withdrawal of agreements.* (1) The operator may terminate the agreement by filing a written notice of such termination with the county committee not later than the closing date. In such case, the producers on the farm may, not later than such closing date, file a new agreement subject to all of the provisions of §§ 485.301 to 485.338.

(2) An agreement may not be withdrawn after the closing date even though the agreement has not been approved by the county committee. However, no agreement shall be in effect unless the agreement is approved by the county committee.

(3) The operator on any farm located in a county which is designated as a "new corn county" under regulations governing the establishment of 1958 corn acreage allotments may terminate any winter wheat agreement entered into with respect to the farm by filing written notice of such termination with the county committee prior to February 1, 1958.

§ 485.310 *Reduction of acreage of commodity covered by agreement*—(a) *General.* The producer must agree not to harvest an acreage of the commodity covered by the agreement which exceeds the allotment, less the number of acres which the producer agrees to place in the acreage reserve. In the case of wheat, if an agreement is entered into for both winter wheat and spring wheat

such number of acres means the total number of acres which the producer agrees to place in the acreage reserve under both agreements.

(b) *Disposal of excess acreage.* (1) The acreage planted to a commodity covered by an agreement in excess of the number of acres which the producer may harvest (such acreage is hereinafter referred to as the "excess acreage") must be disposed of in such manner that no part of such excess can be harvested. Such disposition must be accomplished in a manner permitted under the marketing quota and price support programs and not later than the final date fixed for disposition thereunder: *Provided,* That wheat planted on the acreage reserve as an approved cover crop may not be cut for hay or otherwise harvested after December 31, 1957, or grazed after December 31, 1957, except as provided in § 485.312 (b), even though such manner of disposition is permitted for compliance with allotments for purposes of marketing quotas and price support. Information as to the date fixed for disposition shall be available in the office of the county committee, and shall be obtained by the farm operator from such office.

(2) The county committee shall notify the operator of the number of acres of excess acreage. The notice will specify any additional conditions applicable to the disposition of the excess acreage. Failure to give timely notice as to the correct excess acreage shall not relieve the producer of the responsibility for disposing of the excess acreage. However, if the producer is not given timely notice as to the correct excess acreage and the county committee determines that the producer made a reasonable effort through measurement or otherwise to dispose of the excess acreage, the producer shall not, except if a crop is harvested from the acreage reserve, be deemed in violation of the agreement because of harvesting excess acreage. However, the amount of compensation shall be adjusted as provided under § 485.315.

(c) *Effect of failure to dispose of excess acreage.* If the producer fails to dispose of excess acreage as required, the violation shall subject the producer to the forfeiture and refund of all compensation under the agreement. In addition, if the producer knowingly and willfully harvests such excess acreage he shall be subject to the civil penalty as provided in section 123 of the act and in the regulations contained in Subpart—Violations Procedure of this part.

(d) *Liens or encumbrances.* If at the time an agreement is filed with the county committee there has been planted on the farm an acreage of the commodity covered by the agreement substantially in excess of that which the producer is permitted to harvest, and there is any lien or encumbrance on such crop, consent of the holder of such lien or encumbrance, on a form prescribed by the Administrator, must be furnished to the county committee prior to approval of the agreement by the county committee. The operator or landlord may designate such holder of a lien or encumbrance as payee or joint payee to receive all or any part of the compensation payable under the agreement to such operator or landlord, but may not designate such holder of a lien or encumbrance as payee to receive any of the compensation due tenants and sharecroppers. For purposes of this paragraph, an operator or landlord connected with the farm shall not be considered as the holder of a lien or encumbrance.

§ 485.311 *Designation of acreage reserve*—(a) *Land which may be designated.* To be eligible for designation as acreage reserve, the tract(s) of land:

(1) Must be cropland;

(2) Must be suitable for the production of a 1958 crop of the commodity covered by the agreement;

(3) Must be land on which a soil bank base crop (see § 485.313 (c)) has been planted for harvest or harvested within the past five years, 1953–1957;

(4) Must not be intended to be utilized in the calendar year 1958 for industrial development, housing, highway construction, or other non-farm use;

(5) Must be land on which no crop has been harvested in 1958, except that such restriction shall not apply to a crop which matured and normally would have been harvested in 1957 unless harvesting of the crop in 1957 would have been in violation of a 1957 acreage reserve agreement;

(6) Must not be land on which crops are planted in the fall of 1957 for harvest in 1958 or later years, pursuant to § 485.214 (d) (1) of the 1957 Acreage Reserve Regulations, unless the crop has been disposed of in some manner other than by harvesting; and

(7) Must not be of such size, shape, or nature as to make it impracticable to determine performance of the agreement or as would tend to defeat the purpose of the program.

(b) *Identification of acreage reserve in agreement.* The tract(s) of cropland constituting the acreage reserve for the commodity must be specifically identified in the agreement. If the county committee feels that proper indentification cannot be obtained at the time the agreement is filed, a representative of the county committee shall visit the farm prior to approval of the agreement and establish with the operator the location and number of acres in the acreage reserve. In such case the signing of the agreement by the owners and landlords shall constitute their agreement to the designation of the acreage reserve by the operator.

(c) *Adjustment of acreage reserve.* The farm shall be visited by a representative of the county committee prior to payment of compensation for the purpose of determining the number of acres in the acreage reserve. The farm operator shall be given written notice of the determination.

(1) If the acreage set aside is determined to be less than the number of acres which the producer agreed to place in the acreage reserve, additional eligible acreage may be designated, provided the county committee determines that the producer made a reasonable effort to set aside the number of acres which the producer agreed to place in the acreage reserve. The fact that a crop must be disposed of on land otherwise eligible shall not make such land ineligible for designation as additional acreage reserve. If additional acreage is not designated, the acreage set aside, as determined by the county committee, shall be the acreage reserve.

(2) If the acreage set aside is determined to be less than the number of acres which the producer agreed to place in the acreage reserve, and the county committee determines that the producer did not make a reasonable effort to set aside the acreage which the producer agreed to place in the acreage reserve, additional acreage may not be designated. In such case, the failure to set aside and refrain from harvesting or grazing the acreage which he agreed to place in the acreage reserve shall constitute harvesting or grazing acreage in violation of the agreement.

(3) If the acreage set aside is determined to be more than the number of acres which the producer agreed to place in the acreage reserve, the acreage may be adjusted downward to conform with the agreement.

(4) In order to make an adjustment, the farm operator must file a request in writing with the office of the county committee (accompanied by the estimated cost of redetermining the acreage) within 15 days from the mailing date shown on the notice to the farm operator of the amount of acreage in the acreage reserve: *Provided,* That the county committee may grant an extension of such time if it determines that because of circumstances beyond the farm operator's control he could not have reasonably been expected to file the request within such 15-day period.

(5) If, as a result of an adjustment in the acreage reserve as provided in this paragraph, the identification of the acreage reserve in the agreement is incomplete or inaccurate, the agreement shall be revised or corrected to show a complete and accurate identification of the acreage reserve, as adjusted and redetermined.

(d) *Ineligible land.* If the county committee determines upon inspection of the farm that the land designated as the acreage reserve does not meet the requirements of paragraph (a) of this section, the producers may, not later than fifteen (15) days after the date of written notice of the determination of the county committee, file a new agreement designating other land as the acreage reserve. Such new agreement shall supersede the original agreement when approved by the county committee. If the producers do not file a new agreement as specified above, the original agreement shall not be approved by the county committee. If the agreement has already been approved, and the producers do not file a new agreement as specified above, the agreement shall be deemed terminated.

(e) *Land less productive than indicated on agreement.* If the county committee determines upon inspection of the farm that the land designated as the acreage reserve is significantly less productive than indicated on the agreement, the producers may, not later than

fifteen (15) days after the date of written notice of the determination of the county committee, file a new agreement with respect to the same or other land showing the correct percent of productivity. Such new agreement shall supersede the original agreement when approved by the county committee. If the producers do not file a new agreement as specified above, the original agreement shall not be approved by the county committee. If the agreement has already been approved, and the producers do not file a new agreement as specified above, the agreement shall remain in full force and effect, but the rate of compensation per acre shall be determined as provided in § 485.315.

(f) *Acreage reserve tracts—separate.* The acreage reserve shall be in addition to any acreage in the conservation reserve program. The acreage reserve for any particular commodity shall also be in addition to the acreage reserve designated for any other commodity.

(g) *Incentive for designating same land in 1959.* In order to provide an incentive for designating as the acreage reserve under the 1959 acreage reserve program the same tract, or a part of the same tract, as is designated under the 1958 program, the rate of compensation per acre for any acreage designated as the acreage reserve under the 1959 program, which was also included in the designation of the acreage reserve under the 1958 program, shall be 110 percent of the rate which would otherwise be payable under the 1959 program. Such incentive rate shall be effective regardless of whether the land is designated as the acreage reserve for the same commodity as in 1958.

§ 485.312 *Use of acreage reserve*—(a) *Restriction on harvesting.* No crop shall be harvested from the acreage reserve during the calendar year 1958. Such restriction shall not, however, apply to a crop which matured and normally would be harvested in 1957, unless harvesting of the crop in 1957 would have been in violation of a 1957 acreage reserve agreement. No crop growing on the acreage reserve or permitted to be planted on the acreage reserve which is required to be disposed of under §§ 485.301 to 485.338 shall be harvested either in the calendar year 1958 or later.

(b) *Restriction on grazing.* The acreage reserve shall not be grazed after December 31, 1957, or the date the agreement is filed, whichever is later, and prior to January 1, 1959, unless the Secretary, after the Governor of the State in which the farm is located has certified that there is a need for grazing on the acreage reserve, determines that it is necesary to permit grazing thereon in order to alleviate damage, hardship or suffering caused by severe drought, flood, or other natural disaster. Leasing of the acreage reserve to others for grazing purposes is prohibited. The restriction against grazing shall not apply to a crop which matured and normally would be harvested in 1957, unless harvesting of the crop in 1957 would have been in violation of a 1957 acreage reserve agreement. The following conditions shall apply with respect to any consent to graze:

(1) Except as provided in subparagraph (2) of this paragraph, a written request to graze the acreage reserve, on a form approved by the Administrator, must be filed with the county committee in which the producers agree to a deduction from the compensation payable under the agreement of an amount equal to $6.00 per acre times the total number of acres in the acreage reserve. Such request may be filed by the farm operator alone if the amount of compensation payable to him is sufficient to cover the amount of the deduction; otherwise, the request must be filed by the farm operator and other producers to whom there is an amount of compensation payable sufficient to cover the deduction. If the compensation payable under the agreement amounts to less than $6.00 per acre times the total number of acres in the acreage reserve, the amount of deduction shall be the amount of compensation payable under the agreement. In the event compensation has been paid to the producers, an amount equal to the amount of deduction must be remitted to the county committee with the request for grazing. If the request to graze is approved and written consent to graze is given by the county committee, permission to graze the acreage reserve shall extend through December 31, 1958. Consent to graze the acreage reserve shall not be given if the county committee has reason to believe that there has been a violation of the terms and conditions of the agreement which would require a forfeiture or refund of compensation.

(2) Where a Disaster Relief Feed Grain Program is in operation, grazing the acreage reserve may be permitted by the Secretary for the duration of the disaster without making a deduction from the compensation payable under the agreement.

(c) *Restriction on planting.* No crop shall be planted on the acreage reserve after December 31, 1957, or the date the agreement is filed, whichever is later, and prior to January 1, 1959, except as follows:

(1) If approved by the State committee, crops may be planted in the fall of 1958 for harvest in 1959 or later years, in areas where such crops would normally be planted in the fall of 1958 for harvest in 1959 or later years. Such crops include but shall not be limited to tree crops such as fruit, nut, tung, holly, Christmas trees or nursery stock, and such other crops as asparagus, rhubarb, strawberries and other berry crops. Such crops shall not include any crop which normally would be harvested on or before February 28, 1959. No part of any area within the acreage reserve on which such crops are planted under this provision will be eligible for designation as acreage reserve for 1959 unless the crop is disposed of in some manner other than by harvesting, before the 1959 agreement is filed.

(2) Crops approved by the State and county committees for protective cover may be planted as a cover crop on the acreage reserve.

(d) *Disposition of crops.* Any crop on the acreage reserve must be disposed of prior to the final date fixed for disposition by the State committee in such manner that no part of such crop can be harvested, except (1) a 1957 crop which may be harvested under the provisions of paragraph (a) of this section, and (2) certain approved cover crops. Information as to the applicable disposition dates and the approved cover crops which are required to be disposed of are available in the office of the county committee and shall be obtained by the producer from such office.

(e) *Control of noxious weeds.* The producer shall, without reimbursement under the agreement, take such steps as may be prescribed by the county committee to prevent the acreage reserve from becoming a source of spreading noxious weeds designated by the State committee. A list of such noxious weeds shall be available in the office of the county committee, and shall be obtained by the farm operator from that office.

(f) *Erosion control.* The producer shall, without reimbursement under the agreement, take such steps as may be prescribed by the county committee to prevent wind or water erosion on the acreage reserve.

§ 485.313 *Farm soil bank base*—(a) *General.* A soil bank base shall be established for each farm on which land is placed in the acreage reserve. If a soil bank base has been established for a farm under an existing Conservation Reserve Contract, such established base shall also be used for purposes of the acreage reserve program. It shall be the responsibility of the farm operator to furnish to the county committee the information needed from him to establish the farm soil bank base.

(b) *Soil bank base period and adjustments in base.* The soil bank base for the farm shall be the average acreage of land devoted to soil bank base crops during the years 1956 and 1957 (hereinafter referred to as the soil bank base period), subject to (1) adjustment by the county committee where necessary to make due allowance for abnormal weather conditions to the extent that such abnormal weather conditions affected the acreage of such crops during such period, and (2) such downward adjustment of 1957 crop acreages as is necessary to eliminate any soil bank base acreage credit for new land brought into the production of soil bank base crops after December 31, 1956, to the extent that such new land is not offset by the retirement of cropland on the farm to non-cropland. The soil bank base established hereunder may provide different acreages for alternate years when necessary to reflect an established summer fallow rotation system, provided the average of the acreages for such alternate years shall equal the acreage as determined above.

(c) *Soil bank base crops.* The soil bank base crops shall consist of all crops produced for harvest on the farm other than (1) annual grasses pastured or cut for hay or ensilage, provided a crop of seed or grain was not harvested from

such grasses, (2) biennial legumes, (3) perennial grasses and legumes, (4) annual legumes except soybeans, cowpeas, peanuts, field and canning peas, and field and canning beans, and (5) land devoted to a garden primarily for home consumption. If the farm was entered in the 1956 or 1957 acreage reserve program, the smaller of (i) the number of acres which the producer agreed to place in the acreage reserve, or (ii) the number of acres by which the commodity was reduced below the farm allotment (or soil bank corn base in the case of 1956 corn agreements) shall be considered as being devoted to a crop of the commodity covered by the agreement and shall be included in determining the soil bank base: *Provided*, That if the amount of the reduction below the allotment, in the case of 1957 agreements, has not been determined at the time the farm soil bank base is established, the number of acres included in determining the base shall be that which the producers agreed to place in the acreage reserve.

(d) *Notice of soil bank base.* The operator of each farm for which a soil bank base is established shall be given written notice of the amount of the soil bank base established for the farm unless the farm is covered by a Conservation Reserve Contract. Appeals from the soil bank base established for a farm shall be governed by § 485.332.

(e) *Correction of errors.* Prior to the approval of an agreement, the county committee may correct any error made in establishing the soil bank base. After the agreement is approved and signed by the county committee, a downward adjustment shall not be made if the county committee determines that the producer had no reason to know of the error.

(f) *Permitted acreage of soil bank base crops.* (1) Except as provided in subparagraph (2) of this paragraph, the producer must agree not to harvest an acreage of soil bank base crops in excess of the farm soil bank base less the number of acres he placed in the acreage reserve under all 1958 agreements for the farm and less the number of acres in the conservation reserve at the regular rate.

(2) In the case of farms which during 1957 participated in both the acreage reserve program and the conservation reserve program, the producer must agree not to harvest an acreage of soil bank base crops in excess of the farm soil bank base less the number of acres in the conservation reserve at the regular rate, and less any amount by which the number of acres placed under 1958 agreements exceeds the number of acres placed under 1957 agreements.

(g) *Disposal of excess acreage.* The acreage planted to soil bank base crops in excess of the number of acres which the producer may harvest must be disposed of in such manner that no part of such excess can be harvested. The farm operator shall be given written notice of the number of acres required to be disposed of and such notice shall specify any additional conditions applicable. Failure to give timely notice as to the correct number of acres shall not relieve the producer of the responsibility for disposing of acreage in excess of that permitted to be harvested. However, if the county committee determines in such circumstances that the producer made a reasonable effort by measurement or otherwise to dispose of such acreage, the producer shall not be considered to have harvested such acreage and no reduction in the acreage otherwise eligible for compensation shall be made.

(h) *Effect of failure to dispose of acreage in excess of that permitted.* (1) If the permitted acreage of soil bank base crops is zero and the producer fails to dispose of all acreages planted to soil bank base crops as required, the violation shall subject the producer to the forfeiture and refund of all compensation under the agreement. In addition, if the producer knowingly and willfully harvests the acreage in excess of that permitted, he shall be subject to the civil penalty as provided in section 123 of the act and in the regulations contained in Subpart—Violations Procedure of this part.

(2) If the permitted acreage of soil bank base crops is more than zero, and the final acreage of soil bank base crops exceeds the permitted acreage for such crops by more than one acre or 3 percent, whichever is larger, the violation shall subject the producer to the forfeiture and refund of all compensation under the agreement. In addition, if the producer knowingly and willfully harvests the acreage in excess of that permitted, he shall be subject to the civil penalty as provided in section 123 of the act and in the regulations contained in Subpart—Violations Procedure of this part.

(3) If the permitted acreage of soil bank base crops is more than zero and the final acreage of soil bank base crops exceeds the permitted acreage for such crops by not more than one acre or 3 percent, whichever is larger, the agreement will not be considered in violation but the acreage otherwise eligible for compensation will be reduced by the amount of such excess. If two or more agreements are in effect for a farm, any excess soil bank base acreage for which a reduction is to be made shall be apportioned among the agreements in the proportion that the acreage otherwise eligible for compensation under each agreement bears to the total acreage otherwise eligible for compensation under all agreements.

(i) *Reconstitution of farms*—(1) *Combinations.* If a new agreement is filed for a farm pursuant to § 485.325, which farm was composed of two or more single farms prior to the reconstitution, the soil bank base for the reconstituted farms shall be the sum of the soil bank bases established for the farms being combined. If no soil bank base has been established for any farm included in the combination, such base shall be established in accordance with the provisions of this section.

(2) *Divisions.* If a new agreement is filed for a farm pursuant to § 485.325, which farm was a part of a parent farm prior to the reconstitution, the soil bank base for the parent farm shall be apportioned among each of the farms, as reconstituted, as follows: An acreage equal to the acreage allotments for the parent farm shall be apportioned to each part as provided in the respective regulations governing the establishment of farm acreage allotments. The remainder of the soil bank base for the parent farm shall be apportioned among each of the farms as reconstituted in the same proportion as the cropland in each such reconstituted farm bears to the total cropland contained in the parent farm except that the farm soil bank base for each of the farms as reconstituted may be adjusted by the county committee so as to provide a fair and equitable soil bank base for each such farm. In no case shall the total of the soil bank bases exceed the total soil bank base for the parent farm.

§ 485.314 *Compliance with acreage allotments*—(a) *Eligibility for compensation.* No person shall be eligible for compensation under the acreage reserve program with respect to any farm on which any of the following conditions exist:

(1) The 1958 acreage of cotton (including extra long staple cotton), rice, or tobacco (including cigar binder tobacco, type 53) exceeds the allotment for such commodity; or

(2) The 1958 acreage of wheat, in the case of a farm in the commercial wheat-producing area, exceeds the larger of the allotment or 15 acres; or

(3) The 1958 acreage of corn, in the case of a farm in the commercial corn-producing area, exceeds the allotment; or

(4) The 1958 acreage of peanuts exceeds the larger of the allotment or one acre.

(b) *Unknowingly exceeding limitations.* For purposes of this provision, such acreage limitations shall not be deemed to have been exceeded unless such limitations were knowingly exceeded. Such limitations shall be deemed to have been knowingly exceeded if under the rules and regulations governing price support for the commodity such acreage limitations would be determined to have been knowingly exceeded.

§ 485.315 *Amount of compensation*—(a) *General.* If there has been no violation of the agreement, the amount of compensation payable for the commodity shall be determined by multiplying the rate of compensation per acre for the commodity, determined in accordance with § 485.316, by the number of acres in the acreage reserve, or the number of acres which the producer has agreed to place in the acreage reserve, whichever is the smaller, except as follows: (1) If excess acreage of the commodity covered by the agreement is harvested but the producers are not in violation of the agreement under § 485.310 (b) (2), the amount of compensation payable shall not exceed the rate of compensation per acre for the commodity multiplied by the acreage by which the commodity is reduced below the allotment; (2) If the permitted acreage of soil bank base crops is more than zero

and the final acreage of soil bank base crops exceeds the permitted acreage of such crops by not more than one acre or 3 percent, whichever is larger, the acreage otherwise eligible for compensation shall be reduced by the amount of such excess.

(b) *Error in amount of compensation.* If the amount of compensation shown in an agreement approved by the county committee is incorrect as the result of an error other than a mistake of judgment in determining the productivity of land, the agreement shall be corrected or a new agreement entered into showing the correct amount and compensation will be paid accordingly: *Provided,* That a downward adjustment shall not be made because of an error in the rate of compensation if the county committee with approval by or on behalf of the State committee determines that the producer had no reason to know of the error, but in no case shall the rate of compensation per acre for tobacco exceed the applicable maximum rate per acre specified in the applicable supplement.

(c) *Limitation on Compensation.* The Department of Agriculture and Farm Credit Administration Appropriation Act, 1958, provides that no part of the appropriation made therein shall be used to formulate and administer an acreage reserve program which would result in total compensation being paid to any one producer in excess of $3,000.00 with respect to the 1958 crops. The manner of applying this limitation will be prescribed in an amendment to §§ 485.301 to 485.338.

§ 485.316 *Rate of compensation per acre*—(a) *Commodities other than tobacco*—(1) *General.* The farm rate of compensation per acre shall be determined by multiplying the county rate of compensation per acre by the farm productivity index established for the farm by the county committee except that if the producer indicates on the agreement or the county committee determines that the productivity of any land designated as the reserve acreage is significantly less than the productivity of the average land on the farm normally devoted to the commodity the rate of compensation shall be reduced to reflect the productivity of the land designated as the acreage reserve. County compensation rates per acre will be set forth in the supplement to §§ 485.301 to 485.338 covering the particular commodity.

(2) *Farm productivity index.* The county committee shall establish a farm productivity index for each farm which has an allotment (except for tobacco and "new farm" allotments and "new rice producer" allotments). The farm productivity index for a commodity shall be based upon the suitability of the cropland on the farm for producing the commodity. In determining the farm productivity index, consideration shall be given to the farming practices of the operator as they affect his yields and to any savings in costs which will result from not planting the commodity. The farm productivity index for a commodity shall be expressed as that percentage of 100 that the suitability of the average cropland on the farm normally devoted to the production of the commodity bears to the suitability, using normal farming practices, of the average cropland in the county for producing the commodity. The farm productivity index so established shall be subject to such adjustment as is necessary in order that the farm productivity indexes for all farms in the county, weighted by the allotments, will not exceed 100 percent.

(3) *Correction of errors.* Prior to the approval of an agreement, the county committee may correct any error made in establishing the farm productivity index. In correcting errors made in establishing the farm productivity index, the total of all increases in productivity indexes (together with any increases in productivity indexes as a result of appeals) shall not be such as will result in a weighted average compensation rate (when farm compensation rates are weighted by the respective farm allotments) which exceeds the county rate of compensation by more than 2 percent.

(4) *Instructions to State and county committees.* The Administrator shall issue instructions to State and county committees implementing the provisions of this section. Such instructions shall be available for examination by the producer at the office of each county committee.

(b) *Tobacco.* The farm rate of compensation per acre for tobacco shall be that amount obtained by multiplying the normal yield for the farm, as determined under applicable 1958–1959 tobacco marketing quota regulations, by the unit rate per pound set forth in the applicable supplement to §§ 485.301 to 485.338 for the particular kind of tobacco.

(c) *Incentive for placing same land in acreage reserve.* The rate of compensation per acre for any acreage designated as acreage reserve under the 1958 program which was also included as acreage reserve for any commodity under the 1957 program shall be 110 percent of the rate otherwise applicable.

(d) *Notice of rate.* The operator of each farm which has an "old farm" allotment for an eligible commodity shall be mailed a notice of the maximum 1958 farm rate of compensation per acre for the commodity for purposes of participation in the acreage reserve program. Appeals from the rate so established shall be governed by § 485.332.

§ 485.317 *Determination of acreage*—(a) *Measurements and calculations.* The determination of all acreages for purposes of the 1958 acreage reserve program shall be in accordance with the regulations governing the Determination of Acreage and Performance (22 F. R. 3747).

(b) *Definition of acreage.* In determining the acreage of any commodity or crop under the acreage reserve program, the definition of the acreage for such commodity or crop under the marketing quota and price support programs shall apply except that the provisions of such definitions which relate to the disposition of acreage in excess of the allotment shall, in the case of the acreage reserve program, apply to the disposition of acreage in excess of the acreage permitted to be harvested: *Provided,* That in the case of tobacco, acreage physically harvested and disposed of other than by marketing shall be included in determining the acreage for tobacco under the acreage reserve program, if such acreage is included for purposes of determining price support eligibility.

§ 485.318 *Division of compensation between landlords, tenants, and sharecroppers.* The agreement as executed shall specify the basis on which the landlords, tenants, sharecroppers, and (in the case of rice) persons who furnish water for a share of the rent, are to share in the compensation payable under the agreement. The basis on which the producers share in such compensation must be approved by the county committee as being fair and equitable, taking into consideration (a) the respective contributions which would have been made by the producers in the production of the crops which would have been produced on the acreage diverted from production; (b) the basis on which they would have shared in such crops or the proceeds thereof; (c) the respective contribution of each producer to the reduction of the commodity below the allotment; and (d) the savings or benefits accruing to each producer as a result of the commodity not having been produced on the acreage diverted. If the county committee determines that with the mutual agreement of the producers involved a producer is not making a contribution to the reduction of the commodity, or is making a smaller contribution to the reduction than would normally occur in the absence of such mutual agreement, a larger share of the compensation than would otherwise be approved may be approved for the producers who are making the greater contribution to the reduction.

§ 485.319 *Additional provisions relating to tenants and sharecroppers.* (a) No agreement with respect to any commodity shall be entered into with a producer if the county committee determines:

(1) That the landlord or operator has not afforded his tenants and sharecroppers an opportunity to participate under the agreement in proportion to the number of acres in the respective shares of the allotment made available to such tenants or sharecroppers; or

(2) That the landlord or operator has, in anticipation or because of participating in the Soil Bank Program, reduced the number of tenants and sharecroppers on the farm, or the shares of the allotment made available to tenants or sharecroppers (if a tenant or sharecropper leaves the farm voluntarily, or for some reason other than being forced off the farm by the landlord or operator in anticipation or because of participating in the Soil Bank Program, the failure to replace such tenant or sharecropper shall not be considered as a reduction in anticipation or because of participating in the Soil Bank Program);

(3) That there exists between the operator or landlord and any tenant or sharecropper any lease, contract, agreement, or understanding, unfairly exacted or required by the operator or landlord

and entered into in contemplation of the signing of any agreement hereunder, the effect or purpose of which is:

(i) To cause the tenant or sharecropper to pay over to the landlord or operator any compensation to be paid to him under the agreement; or

(ii) To change the status of any tenant or sharecropper in order to deprive him of any part of the compensation or any other right or privilege of his under the agreement to which his actual status with respect to the land prior thereto would have entitled him; or

(iii) To reduce the size of the tenant's or sharecropper's share of the allotment in contemplation of the signing of the agreement; or

(iv) To increase the rent to be paid by the tenant or decrease the share of the crop produced or its proceeds to be received by the tenant or sharecropper.

(4) That the operator or landlord has adopted any device or scheme of any sort whatever for the purpose of depriving any tenant or any sharecropper of his compensation or any other right under the agreement.

(b) The agreement shall be deemed to have been violated if any of the conditions set forth in paragraph (a) of this section are discovered after the signing of the agreement, or if, after the signing of the agreement, the operator or landlord enters into any lease, contract, agreement, or understanding with any tenant or sharecropper of the nature prohibited by paragraph (a) (3) of this section or adopts any scheme or device prohibited by paragraph (a) (4) of this section.

(c) In addition to the grounds for not approving an agreement specified in paragraph (a) of this section, the county committee shall disapprove an agreement where such action is for any other reason determined by the county committee to be necessary in order to protect the interests of tenants and sharecroppers.

§ 485.320 *Manner of compensation.* Compensation will be paid to each producer entitled thereto through the issuance to such producer of negotiable certificates, redeemable by Commodity Credit Corporation. Such certificates will be redeemable in cash upon presentation by the producer to whom issued or any holder in due course at the Federal Reserve Bank or Branch Bank designated thereon. Such presentation should be made through regular banking channels. The designated Federal Reserve Bank or Branch Bank will accept the certificates as cash items for immediate credit. The statement on the face of the certificate that the certificate is not valid unless presented within one year from date of issue means only that the particular certificate must be presented within such time; if such certificate is not so presented, it may be returned to the ASC county office which issued it for cancellation and a substitute will be issued in lieu thereof to the holder. In the case of certificates issued with respect to wheat, rice and corn, the producer to whom the certificate is issued for participating in the program (but not any other person) may obtain redemption of such certificates in grain to the extent provided in the regulations governing redemption of certificates in grains in effect at the time of redemption. Commodities delivered to producers in redemption of certificates shall not be eligible for tender to Commodity Credit Corporation under the price support program.

§ 485.321 *Set-offs*—(a) *General.* If any producer, or any person to whom a certificate is payable, has a debt due and owing to the United States Department of Agriculture or any agency thereof, and such debt is known to the county committee, or a debt due and owing to any other agency of the United States if such indebtedness to such other agency of the United States is listed on the county debt register, the compensation due such producer or person shall be set off against such indebtedness. Indebtedness owing to the Department of Agriculture, or any agency thereof, shall be given first consideration. Set-offs made pursuant to this section shall not deprive any producer or person of any right to contest the justness of the indebtedness involved either by administrative appeal or by legal action.

(b) *Assignees and holders of liens.* Assignees and holders of liens or encumbrances, designated as payees, shall be notified of the amount of any indebtedness owed by a producer subject to set-off on the date of the assignment or the date the agreement is filed in the case of a lien-holder. Set-off of such indebtedness shall be made prior to payment to the assignee or lien-holder, and the assignee or lien-holder shall be entitled to any amount remaining. The assignee or holder of the lien or encumbrance shall be entitled to payment prior to set-off with respect to any amount not specified in the notice of indebtedness owed by the producer.

§ 485.322 *Release and reapportionment of acreage allotments*—(a) *Release of allotments.* The producers on a farm may not participate in the Acreage Reserve Program for a commodity if any part of the farm allotment for such commodity is voluntarily released pursuant to the provisions of the acreage allotment regulations governing the release and reapportionment of allotments. A rice producer may not participate in the Acreage Reserve Program if any part of his producer allotment is voluntarily released pursuant to the provisions of the acreage allotment regulations governing the release and reapportionment of allotments.

(b) *Reapportionment of allotment.* In the case of a farm whose allotment for a commodity is increased due to reapportionment to such farm of allotments voluntarily released by other farms, or in the case of rice, producer allotments voluntarily released by producers, the allotment prior to reapportionment shall be considered the allotment for purposes of determining (1) the maximum acreage for such commodity which may be placed in the Acreage Reserve Program, and (2) the acreage of such commodity which the producers may harvest under the provisions of § 485.310; but for purposes of determining compliance with allotments for commodities other than those covered by the agreement, the reapportioned allotment shall be applicable.

§ 485.323 *Revised allotments*—(a) *Upward revisions.* (1) If the farm allotment for a commodity is increased, other than as a result of reapportionment or reconstitution of the farm or in the case of rice as a result of additional producer allotments being allocated to the farm, after an agreement has been filed for the commodity, but prior to the end of the normal planting season for the commodity in the county or area, as determined by the county committee, a new agreement may be filed, subject to the availability of funds, within 15 days after the mailing date shown on the notice of the revised allotment to the farm operator. If a new agreement is filed the number of acres placed in the acreage reserve may be increased by the number of acres by which the allotment is increased, and additional or other acreage meeting all the requirements of these regulations may be designated as the acreage reserve.

(2) If a new agreement is not filed, or if the allotment is increased after the end of the normal planting season for the commodity in the county or area, as determined by the county committee, the maximum acres of the commodity for harvest, as specified in the agreement, shall be increased by the number of acres by which the allotment is increased.

(b) *Downward revisions.* (1) In any case where a producer is officially notified of an allotment for a commodity which is larger than that finally established and an agreement was not filed for the commodity prior to the mailing date shown on the notice of the revised allotment, the farm allotment for the commodity for purposes of the acreage reserve program shall be the revised allotment.

(2) In any case where a producer is officially notified of an allotment for a commodity which is larger than that finally established and an agreement has been filed prior to the mailing date shown on the notice of the revised allotment, the allotment for purposes of the acreage reserve program shall be the allotment prior to the decrease, provided the county committee determines that the producer had no reason to know that the allotment prior to the decrease was erroneous and has acted in reliance on the agreement. If the county committee determines that the producer had reason to know that the allotment prior to decrease was erroneous, the allotment for purposes of the acreage reserve program shall be the decreased allotment. In such case, the agreement filed shall be deemed terminated. However, a new agreement may be filed within 15 days after the mailing date shown on the notice of the revised allotment.

§ 485.324 *Compensation in case of sale or transfer of farm or change in tenants*—(a) *Cases involving reconstitution.* In case all or a part of the farm is sold or transferred after the execution of an agreement, and the farm allotment for the commodity covered thereby is revised as a result of reconstitution, the provisions of § 485.325 shall apply rather than the provisions of this section.

(b) *Sale or transfer of entire farm.* In the case of the sale or transfer of the entire farm covered by the agreement, if the buyer or successor becomes a party to the agreement, and the producers involved agree on a division of the compensation payable under the agreement, by executing a form prescribed by the Administrator within 15 days after the buyer or successor receives notification from the county committee of his eligibility to execute such a form, the agreement will remain in effect. If such a form is not so executed, the agreement shall be deemed terminated, in which case no compensation shall be payable under such agreement, and any compensation paid shall be refunded. In any case, however, where the sale or transfer occurs after the end of the normal harvesting season in the area for the commodity covered by the agreement, as determined by the county committee, and there has been performance of the agreement during the entire contract period, the county committee with the approval by or on behalf of the State committee, may pay the compensation to the original owner without requiring the execution of the form mention above. In such case the agreement shall not be deemed terminated.

(c) *Sale or transfer of part of farm.* (1) If the county committee is notified in writing prior to payment of compensation to the original owner of the sale or transfer of a part of the farm, and the original owner and the buyer or successor agree on a division of the compensation payable to the original owner under the agreement on a form prescribed by the Administrator, compensation shall be paid accordingly.

(2) If such an agreement is not reached between the original owner and the buyer or successor, the county committee shall determine the division between the original owner and the buyer or successor of the compensation payable to the original owner under the agreement on a basis which it determines to be fair and equitable. In reaching such determination, the county committee shall consider, among any other factors which it determines pertinent, (i) the respective interests which the original owner and the buyer or successor have in the 1958 crop, if any, of the commodity covered by the agreement which was planted on the farm, (ii) the contribution to the reduction of the commodity which has been made by the original owner at the time of the sale or transfer, (iii) the contribution which will be made by the buyer or successor to such reduction, (iv) the length of time the agreement has been in effect prior to the sale or transfer, (v) the respective contributions which have and will be made by the original owner and by the buyer or successor in carrying out those provisions of the agreement relating to not harvesting or grazing, and the control of noxious weeds, on the acreage reserve.

(3) No compensation shall be paid to the buyer or successor unless he becomes a party to the acreage reserve agreement by executing a form prescribed by the Administrator for such purpose within 15 days after receiving notification from the county committee of his eligibility to execute such a form.

(d) *Change in tenants and sharecroppers.* If the county committee is notified in writing, prior to payment of compensation under an existing agreement to a tenant (including a tenant operator) or to a sharecropper, that such tenant or sharecropper is no longer on the farm, the county committee shall determine the division of compensation between the original tenant or sharecropper and the successor tenant or sharecropper, or between the original tenant or sharecropper and the landlord or operator if the tenant or sharecropper is not replaced, on a basis which it determines to be fair and equitable. In making such determination, the county committee shall consider, among any other factors which it deems pertinent, (1) the respective interests which the original tenant or sharecropper and the successor tenant or sharecropper (or the landlord or operator) have in the 1958 crop, if any, of the commodity covered by the agreement which was planted on the farm, (2) the contribution to the reduction of the commodity which has been made by the tenant or sharecropper up to the time he leaves the farm, (3) the contribution which will be made by the successor tenant or sharecropper (or the landlord or operator) to such reduction, (4) the length of time the agreement has been in effect prior to the change in tenant or sharecropper, (5) the respective contributions which have and will be made by the original tenant or sharecropper and by the successor tenant or sharecropper (or landlord or operator) in carrying out those provisions of the agreement relating to the preventing of harvesting or grazing and the control of noxious weeds on the acreage reserve: *Provided*, That if the successor is a tenant-operator, no compensation shall be paid to him unless he becomes a party to the agreement, by executing a form prescribed by the Administrator for such purpose.

(e) *Withholding of compensation.* In any case covered by this section, payment of compensation may be withheld until the end of 1958 if it is deemed necessary or desirable in order to assure performance of the agreement.

§ 485.325 *Reconstituted farms*—(a) *Termination of agreement.* If, after an agreement has been filed for a commodity, the farm allotment for the commodity is revised as a result of reconstitution of the farm due to a division by sale, lease or other means, or as a result of the combination of two or more farms or parts of farms into a single farm, the agreement shall be deemed terminated as of the date of mailing of notice of the revised allotment.

(b) *Filing of new agreement.* A new agreement may be filed by the producer(s) on the farm(s) as reconstituted on or before the closing date for filing an agreement as set forth in the applicable supplement to §§ 485.301 to 485.338, or within 15 days after the mailing date shown on the revised notice of allotment to the operator(s) on the farm(s) as reconstituted, whichever is later.

(c) *New agreement limitations.* (1) If a new agreement, as provided in paragraph (b) of this section, is filed after the closing date, the maximum compensation payable under the new agreement(s) filed for a commodity shall not exceed the maximum compensation payable under the original agreement.

(2) The county committee may allocate the maximum compensation which would have been payable under a terminated agreement among the farms as reconstituted on the basis of the division of the farm allotment, or on such other basis as may be agreed upon by the producers involved.

(d) *Compliance with allotments.* (1) Where an agreement for winter wheat is in effect for a farm which is divided and a revised allotment for a commodity or commodities other than wheat is determined for one or more of the farms resulting from the division, but the farm is not reconstituted for wheat, compensation shall not be paid to any producer otherwise entitled to compensation under such agreement for wheat if he is a producer on any farm resulting from the division and has an interest in any allotment thereon for any commodity other than wheat with respect to which there has not been compliance, as required by § 485.314. Where any agreement for a commodity other than winter wheat is in effect with respect to a farm which resulted from the division of a farm having a wheat allotment, but the wheat allotment is not revised as a result of the division, compensation shall not be made to any producer otherwise entitled to compensation under such agreement, if he is a producer having an interest in such wheat allotment and there has not been compliance with respect to the wheat allotment, as required by § 485.314.

(2) Where an agreement for winter wheat is in effect for a farm any part of which is combined with one or more other farms or parts of farms and a revised allotment for a commodity or commodities other than wheat is determined for the combined farm, but the wheat allotment is not revised, compensation shall not be paid to any producer otherwise entitled to compensation under such agreement for wheat if he is a producer on the combined farm and has an interest in any allotment thereon for any commodity other than wheat with respect to which there has not been compliance, as required by § 485.314. Where an agreement for a commodity other than winter wheat is in effect with respect to a farm which resulted from a combination of one or more farms or parts of farms having a wheat allotment, but the wheat allotment(s) was not revised as a result of the combination, compensation shall not be paid to any producer otherwise entitled to compensation under such agreement if he is a producer having an interest in any of such wheat allotment(s) and there has not been compliance with respect to any such wheat allotment(s), as required by § 485.314.

§ 485.326 *Successors-in-interest.* If any producer, entitled to compensation under an agreement, dies, becomes incompetent, or disappears before receiv-

ing such compensation, compensation shall be made to his successor, as determined in accordance with the regulations issued by the Secretary (7 CFR Part 1108), or any amendments thereto, for payments made pursuant to section 8 of the Soil Conservation and Domestic Allotment Act, as amended.

§ 485.327 *Assignments.* Any producer who may be entitled to any compensation under the acreage reserve program may assign his right thereto, in whole or in part, subject to the following conditions:

(a) The assignment must be made in writing on a form prescribed by the Administrator.

(b) There may be only one outstanding assignment of compensation payable to a producer under an agreement.

(c) Each assignment may cover only compensation due under one agreement.

In order to be recognized, the assignment must be delivered at the office of the county committee which signed the agreement. In the event of two outstanding assignments by a producer only the first one received at such county office will be recognized. Payment of any compensation which may become due will be paid to the assignee, to the extent of the assignment, subject to the provisions of § 485.321 pertaining to setoffs, unless prior thereto the county office at which the assignment was delivered receives a written release signed by the assignee. No further assignment may be made by an assignee.

§ 485.328 *Schemes or devices to defeat purposes of agreement.* No producer entering into an agreement with the Secretary hereunder shall employ any scheme or device which would tend to defeat the purpose of the agreement. It shall be considered a scheme or device to defeat the purpose of the agreement for a producer having an agreement for a commodity on one farm to exceed the allotment for the commodity on another farm if he exceeds substantially the acreage normally devoted to the commodity on such farm.

§ 485.329 *Violations of agreement.* The producer must agree to forfeit all rights to compensation under the agreement and to refund to the United States all compensation received by him thereunder if it is determined that there has been a violation of the agreement which is of such a substantial nature as to warrant termination of the agreement, and to accept such adjustments in compensation, forfeit such benefits, and make such refunds to the United States of compensation as is determined to be appropriate if it is determined that the violation is of such a nature as not to warrant termination of the ageement. In any case where any compensation paid to a tenant or sharecropper who did not sign the agreement is forfeited and required to be refunded, the producers signatory to the agreement shall be jointly and severally obligated with the tenant or sharecropper to make such refund. Regulations prescribing the rules and procedure for determining whether a violation has occurred, and the amount of adjustment, forfeiture or refund which shall be made are published in Subpart—Violations Procedure of this part. Such regulations may be modified, amended, revised or supplemented at any time, but such action shall not adversely affect any producer where a final determination has been made by the State committee and the producer has been officially notified thereof before such action is taken.

§ 485.330 *Penalty for grazing or harvesting.* Any producer who knowingly and willfully grazes or harvests any crop from any acreage in violation of an agreement shall be subject to the civil penalty as provided in section 123 of the act and in the regulations contained in Subpart—Violations Procedure of this part. Such penalty is in addition to any amounts required to be forfeited or refunded under the provisions of the agreement. The termination of an agreement under any of the provisions of §§ 485.301 to 485.338 shall not be construed as a release of any producer from liability for a civil penalty incured by such producer prior to the termination.

§ 485.331 *Access to farm and records.* The county committeemen or their representatives, or any authorized representatives of the Secretary, for purposes of ascertaining the accuracy of the representations made in or in connection with any agreement entered into hereunder and the performance of the terms and conditions of the agreement, shall have the right to enter the farm at any reasonable time in order to measure the acreage or determine the production of any agricultural commodity on the farm and to examine any records pertaining to the farm or to the acreage, production, or sale of any such agricultural commodity.

§ 485.332 *Appeals.* (a) Any producer may request a reconsideration of the farm soil bank base or the farm rate per acre by filing at the office of the county committee a written request therefor within 15 days from the date of mailing of the notice of the farm soil bank base or the farm rate per acre. If such a request for reconsideration is not timely filed, the farm soil bank base or farm rate per acre set forth in the notice shall be final.

(b) The county committee, after reconsidering the farm soil bank base or farm rate per acre, shall notify the producer of its decision. The producer may file an appeal to the State committee in writing at the office of either the county or State committee within 15 days from the date of mailing of the notice of the county committee's decision upon reconsideration. If such an appeal is not timely filed, the farm soil bank base or farm rate per acre determined by the county committee shall be final. A determination of the State committee with respect to any appeal shall be final.

(c) The filing of a request for reconsideration or appeal shall not operate to extend the applicable closing date for filing an agreement and shall not give the producer any right to terminate the agreement even though he is dissatisfied with the decision on reconsideration or appeal. Agreements approved pending request for reconsideration or appeal shall be and remain in full force and effect regardless of the decision made on reconsideration or appeal, subject to such increase in the farm soil bank base or farm rate per acre as may be allowed.

§ 485.333 *State committee approval of determinations of county committees.* The State committee may revise or require revision of any determination made by the county committee in connection with the acreage reserve program. This authority shall not include authority to revise or require the revision of an agreement after the agreement has been signed by both the produced and a member of a county committee.

§ 485.334 *Finality of determinations.* The facts constituting the basis for any compensation, or the amount thereof, under any agreement when officially determined in conformity with §§ 485.301 to 485.338, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government, except that the act provides for judicial review in the case of the termination of an agreement because of a violation.

§ 485.335 *Effect on acreage allotment and marketing quota programs.* (a) The acreage on any farm which is diverted from the production of any commodity in order to carry out an agreement shall be considered as acreage devoted to the commodity for the purposes of establishing future State, county and farm acreage allotments.

(b) In applying the provisions of paragraph (6) of Public Law 74, Seventy-seventh Congress (7 U. S. C. 1340 (6)), and section 326 (b) and 356 (g) of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1326 (b), 1356 (g)), relating to reduction of the storage amounts of wheat and rice, the acreage on any farm which is diverted from the production of wheat or rice in order to carry out an agreement, shall be considered as wheat acreage or rice acreage, as the case may be, on the farm.

§ 485.336 *Redesignation as conservation reserve.* The county committee may permit a producer to terminate an agreement in order to place all or any part of the tract of land designated as the acreage reserve in the conservation reserve, and may permit such a producer to sign a new agreement designating other eligible land as the acreage reserve, provided the maximum compensation payable under the new agreement does not exceed that payable under the original agreement.

§ 485.337 *Waiver and termination of agreements.* The Administrator, in order to prevent undue hardship, may, upon recommendation of the State committee, waive the requirements of any provision of the regulations contained herein or in the agreement, or may consent to the termination by the producer of any agreement entered into hereunder, if such waiver or consent to termination is not prohibited by law and if, in his judgment, such action is in the best interests of the program. Any such waiver or consent to termination shall

be in writing and shall contain a full statement of the reasons therefor. If the facts or circumstances on which the request for a waiver or consent to termination are based have, or are likely to have general applicability, relief may not be given under the provisions of this section but only by an appropriate amendment to §§ 485.301 to 485.338.

§ 485.338 *Agreements not in conformity with regulations.* (a) 1958 acreage reserve agreements which contain errors or which are not in conformity with the regulations in §§ 485.301 to 485.338 shall be corrected in accordance with instructions issued by the Administrator (copies of such instructions will be available in the office of the county committee).

(b) If it is discovered, after an acreage reserve agreement has been approved by the county committee, that, through a misunderstanding of the program by a producer acting in good faith, the agreement is not in conformity with the regulations in §§ 485.301 to 485.338, a new agreement shall be filed or the original agreement corrected, to meet all the requirements of the program. If any producer who signed the original agreement is unwilling to sign a new agreement or to correct the original agreement in conformity with the regulations in §§ 485.301 to 485.338, the State committee may, in accordance with instructions from the Administrator, upon the request of all producers who signed the original agreement, consent to the termination of the agreement. If a new agreement is not filed or the original agreement corrected or terminated, as provided in this paragraph, the original agreement shall remain in full force and effect, subject to all the provisions of §§ 485.301 to 485.338.

NOTE: The reporting requirements contained in these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued at Washington, D. C., this 6th day of August 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-6574; Filed, Aug. 9, 1957; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 612, Fifth Revision]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—KHAPRA BEETLE

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76-2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76-2) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), revised administrative instructions are hereby issued as follows, listing warehouses, mills, and other premises in which infestations of the Khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76-2a *Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations.* Infestations of the khapra beetle have been determined to exist in the warehouses, mills, and other premises listed in paragraphs (a) and (b) of this section. Accordingly, such warehouses, mills, and other premises are hereby designated as regulated areas within the meaning of the provision in this subpart:

(a)

ARIZONA

Cortaro Cotton and Cattle Company Ranch, Casa Grande Highway and Picture Rock Road, Tucson.

East Broadway Trading Company property, 2410 East Broadway, Phoenix.

Farm & Ranch Service property, 4419 South 16th Street, Phoenix.

Ray Luster Farm, Box 246, Pima.

Miller Ranch, Starr Route, Mammoth.

Miller Ranch Dry Camp No. 1, General Delivery, Mammoth.

Miller Ranch No. 2 (Holy Joe Camp), General Delivery, Mammoth.

Miller Ranch, Holy Joe Camp No. 3, General Delivery, Mammoth.

Miller Ranch Camp No. 4 (Absie or Haunted Corral Camp), General Delivery, Mammoth.

Saliba's Market, P. O. Box 37, El Mirage.

Trader Joe's property, 1937 East Indian School Road, Phoenix.

CALIFORNIA

Brown's Livestock Company property, 1761 Atlas Peak Road, Napa.

Cauzza Ranch, Route 2, Box 21, Eucalyptus Lane, Imperial.

D. V. B. Ranch, located at the intersection of roads East Z-4 and 22. Mail address East Highline Canal, Holtville.

C. C. Huff Farm, Route 2, Box 46, Imperial.

Eugene B. Kinnaird Ranch, on Magnolia Avenue, one mile east of Highway 115. Mail address P. O. Box 681, Holtville.

C. E. Kline Ranch, Route 2, Box 282, El Centro.

James Nickell property, 1109 West Ninth Street, Holtville.

Raleigh Roberts Farm, Route 5, Box 2405, Oroville.

Karm Singh property, Calipatria.

NEW MEXICO

M. M. Martin Farm, located 11 miles south of Tolar.

(b) The portion of each of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in and upon such premises. During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

ARIZONA

La Salvia Dairy, Box 116, Laveen Stage, Phoenix.

CALIFORNIA

John Binnell (chicken ranch), 1607 South Cucamonga Avenue, Ontario.

Cal-Fed Feed Yard, located 2 miles south of Orita, 1½ miles east on Oxalio Canal, Brawley.

Louis Carano Ranch, east of Southern Pacific Railroad tracks at intersection of County Roads East B and No. 8, 1 mile south of Heber.

Union Development Co. Warehouse, located approximately 100 yards south of intersection of County Roads No. 86 and West A, Niland.

This revision specifies in one document the warehouses, mills, and other premises that were designated as khapra beetle regulated areas in administrative instructions contained in P. P. C. 612, Fourth Revision (7 CFR, 1956 Supp., 301.76-2a), as amended by Supp. 2, 22 F. R. 365, January 18, 1957; Supp. 3, 22 F. R. 717, February 5, 1957; Supp. 4, 22 F. R. 1597, March 13, 1957; Supp. 5, 22 F. R. 2310, April 6, 1957; Supp. 6, 22 F. R. 3479, May 18, 1957; and Supp. 7, 22 F. R. 3955, June 6, 1957; and that are still in that status. This revision supersedes the aforesaid administrative instructions and supplements thereto.

This revision revokes the designation as regulated areas of certain premises in Arizona and California, it having been determined by the Director of the Plant Pest Control Branch that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds certain premises in Arizona and California to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the revision also segregates certain regulated premises in Arizona and California where the approved fumigation treatment has been applied to the portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

This revision shall be effective August 10, 1957.

These instructions, in part, impose restrictions supplementing khapra beetle quarantine regulations already effective. They also relieve restrictions insofar as they revoke the designation of certain regulated areas. They must be made effective promptly in order to carry out the purposes of the regulations and to be of maximum benefit in permitting the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed from designation as regulated areas. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318, 7 U. S. C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended, 7 U. S. C. 161)

Done at Washington, D. C., this 7th day of August 1957.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F. R. Doc. 57-6560; Filed, Aug. 9, 1957; 8:48 a. m.]

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

[Valencia Orange Reg. 114]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.414 *Valencia Orange Regulation 114*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 8, 1957.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., August 11, 1957, and ending at 12:01 a. m., P. s. t. August 18, 1957, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 808,500 cartons;

(iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

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

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

Dated: August 9, 1957.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-6649; Filed, Aug. 9, 1957; 11:32 a. m.]

[Lemon Reg. 699]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

§ 953.806 *Lemon Regulation 699*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 7, 1957.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., August 11, 1957, and ending at 12:01 a. m., P. s. t., August 18, 1957, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 372,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: August 8, 1957.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-6625; Filed, Aug. 9, 1957; 9:21 a. m.]

[Lemon Reg. 698, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date

when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.805 (Lemon Regulation 698; 22 F. R. 6208) are hereby amended to read as follows:

(ii) District 2: 372,000 cartons.

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

Dated: August 6, 1957.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-6558; Filed, Aug. 9, 1957; 8:48 a. m.]

PART 989—RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

MODIFICATION OF MINIMUM GRADE AND CONDITION STANDARDS FOR NATURAL CONDITION LAYER MUSCAT RAISINS AND MINIMUM GRADE STANDARDS FOR PACKED LAYER MUSCAT RAISINS

Notice was published in the July 27, 1957 issue of the FEDERAL REGISTER (22 F. R. 5959) that the Secretary of Agriculture was considering a proposed rule to modify for the 1957–58 crop year the minimum grade and condition standards for natural condition Layer Muscat raisins and minimum grade standards for packed Layer Muscat raisins, as set forth in such notice. The modifications were proposed after consideration of the recommendation of the Raisin Administrative Committee and other available information, in accordance with the applicable provisions of Marketing Agreement No. 109, as amended, and Marketing Order No. 89, as amended (20 F. R. 6435, 21 F. R. 8182), regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). In the notice, opportunity was afforded interested persons to file written data, views, or arguments with respect thereto.

No objections to the proposed modifications were submitted. After consideration of all the available information, it is concluded that to modify the minimum grade and condition standards for natural condition Layer Muscat raisins and the minimum grade standards for packed Layer Muscat raisins as set forth in the aforesaid notice will tend to effectuate the declared policy of the aforesaid act.

Therefore, it is hereby ordered, That, effective as of 1:00 a. m., P. d. s. t., September 1, 1957, and continuing until 12:00 midnight, P. d. s. t., August 31, 1958:

(1) Section 989.97 B 3 is, pursuant to the authority contained in § 989.58 (b) of the order, hereby modified so as to change the parenthetical phrase therein reading "(except Layer Muscats shall not exceed 18 percent)" to read "(except that there shall be no maximum permissible percentage for moisture content of Layer Muscats)" and by changing subparagraph (d) of said section to read as follows:

(d) Of such quality and condition that, when processed in accordance with good commercial practice, will, except with respect to moisture content, meet "U. S. Grade B" or better grade as defined in the effective United States Standards for Grades of Processed Raisins.

(2) The requirement set forth in § 989.59 (a) *(2) (iii) that Layer Muscat raisins in packed form at least meet the minimum grade standards prescribed in "U. S. Grade B" as contained in effective United States Standards for Grades of Processed Raisins is, pursuant to the authority contained in § 989.59 (b) of the order, modified, insofar as operation under the order is concerned, to eliminate therefrom the moisture content restriction set forth in § 52.1847a (b) of said standards.

It is hereby further found and determined that good cause exists for not postponing the effective date of this document later than September 1, 1957, (see section 4 (c) of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.) in that: (1) The maximum permissible moisture content restrictions for Layer Muscat raisins, as set forth in the effective standards, would unnecessarily restrict the marketing of such raisins handled during the 1957–58 crop year; (2) it is necessary that the relaxation of such restrictions be continued for the 1957–58 crop year so that normal marketing of such raisins may proceed without change; (3) handlers require no advance notice for preparation to comply with the continuation of this relaxation. In these circumstances, this document should be made effective not later than September 1, 1957.

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

Dated: August 7, 1957.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division.

[F. R. Doc. 57-6572; Filed, Aug. 9, 1957; 8:49 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter II—International Cooperation Administration, Department of State

PART 206—PER DIEM PAYMENTS TO PARTICIPANTS IN NONMILITARY MUTUAL SECURITY TRAINING PROGRAMS

PER DIEM RATES

By virtue of authority vested in me by Executive Order 10575, as amended, Executive Order 10610, as amended, and State Department Delegation of Authority No. 85, as amended, and in accordance with the approval of the Bureau of the Budget pursuant to section 12 of Public Law 885, 84th Congress (5 U. S. C. 170q), I hereby prescribe as follows:

§ 206.1 *Per diem rates.* Participants in any training program under the Mutual Security Act of 1954, as amended, other than Chapter 1 of Title I, may receive a per diem allowance in accordance with the following rates:

(a) For participants in programs of training in the United States, a per diem allowance not to exceed $12, or, in exceptional circumstances, such other rate, not to exceed $17, as the Director of the International Cooperation Administration or his designee may prescribe;

(b) For participants in programs of training in countries other than the continental United States, a per diem allowance not to exceed those prescribed by the Standardized Government Travel Regulations.

(Sec. 521, 68 Stat. 855, as amended; 22 U. S. C. 1781)

Dated: July 17, 1957.

JOHN B. HOLLISTER,
Director, International Cooperation Administration.

[F. R. Doc. 57-6550; Filed, Aug. 9, 1957; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter C—Military Personnel

PART 56—MEDICAL CARE FOR DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

DETERMINATION OF DEPENDENTS' ELIGIBILITY

The following amendment to § 56.2–1 (a) of this part has been authorized by the Secretary of Defense and the Secretary of Health, Education and Welfare. References to DD Form 1171 have been deleted from the revised § 56.2–1 (a), which now reads as follows:

§ 56.2–1 *Determination of dependents' eligibility.* (a) The uniformed services will require dependents (or their sponsors) who request medical care to furnish proof of their eligibility for such care. In order to develop uniformity in the criteria utilized by the uniformed services to determine dependents eligible for medical care, the uniformed services will utilize, as soon as practicable, DD Form 1172,[1] "Application for Uniformed Services Identification and Privilege Card." Implementation and use of this form shall be completed not later than December 31, 1957. Pending use of this DD Form, existing procedures for determining dependents' eligibility for medical care, employed by the respective services, will be continued. Modifications of DD Forms 1172 and 1173 may be made, subject to the approval of the Office, Secretary of Defense.

(Secs. 101–103, 201–204, 301–305, 70 Stat. 250–254; 37 U. S. C. 401–403, 411–414, 421–423, 404–405)

MAURICE W. ROCHE,
Administrative Secretary.

[F. R. Doc. 57-6541; Filed, Aug. 9, 1957; 8:45 a. m.]

[1] Filed as part of original document.

Chapter VII—Department of the Air Force

Subchapter E—Post Services

PART 856—PHOTOGRAPHY

SALE OF AERIAL AND DOCUMENTARY STILL PHOTOGRAPHY

In Subchapter E, a new Part 856 is added as follows:

Sec.
856.1 Purpose.
856.2 To whom sold.
856.3 Policy.
856.4 Schedule of fees.
856.5 Collection of fees.

AUTHORITY: §§ 856.1 to 856.5 issued under sec. 8012, 70A Stat. 488; 10 U. S. C. 8012.

SOURCE: AFR 95-4, June 17, 1957.

§ 856.1 *Purpose.* Sections 856.1 to 856.5 establish the policy for the sale of unclassified Air Force aerial and documentary still photographs and provide a schedule of fees to be charged.

§ 856.2 *To whom sold.* (a) Members and agencies of the Federal Government.

(b) To the public. As used in §§ 856.1 to 856.5, the public includes any person, or group of persons, including associations, organizations, partnerships, corporations, businesses, municipalities, counties, States, or territorial governments.

§ 856.3 *Policy.* (a) Only prints (reproduction) which may be made from existing black and white negatives are authorized for sale. If the photograph is in color, a duplicate of the color transparency instead of a print is authorized for sale.

(b) Sale of prints or furnishing related photographic services which compete with commercial organizations is prohibited.

(c) Sale of photographs that are unrelated to Air Force activities is prohibited even though Air Force photographers make such photographs.

(d) Sale of Air Force photographs for any use which implies Air Force indorsement of a service or product is prohibited unless the recipient has obtained approval in writing from the Office of Information Services, Office of the Secretary of the Air Force.

(e) Each print sold will bear the official Air Force credit line as follows:

U. S. AIR FORCE PHOTO

Released by _____ Air Force Base.

(f) Sale of prints does not include waiver of propriety or privacy rights unless these rights and the right of transfer belong to the Air Force.

(g) Exclusive rights to official Air Force photographs may not be claimed by any person or persons.

(h) Photographs required in conducting official Department of Defense business will be furnished without charge. To the extent that workload and funds permit, prints requested from the following sources and for the purposes specified will be furnished without charge:

(1) The general public in furtherance of the Armed Forces recruiting program or in the interest of public understanding of the Armed Forces;

(2) Members of Congress for use in official governmental activities;

(3) Nonprofit organizations carrying on a function related to, or in the interest of, public health and welfare;

(4) Members of the Armed Forces in a casualty status, or their next of kin or authorized representatives, when requested prints relate to source of casualty;

(5) Prints which may be required in accordance with statutes or executive orders;

(6) Prints required by agencies carrying on a function related to an Air Force objective.

(7) Occasional and incidental requests (including requests from a resident of a foreign country), of the type that is not requested often, if it is administratively determined that a fee would be inappropriate in such an occasional case.

§ 856.4 *Schedule of fees.* (a) Still documentary black and white photographic prints:

Size	Single weight, glossy finish	Double weight, matte finish
	Each	*Each*
8" x 10"	$0.55	$0.60

(b) Still documentary color transparencies:

Size	*Price*
4" x 5"	$5.00 each.

(c) Aerial photographic contact prints (same size as negative):

Size	Number of separate prints	Single weight, glossy or double weight, semimatte finish
		Each
7" x 9" or 9" x 9"	1 to 100	$0.65
	101 to 1,000	.50
	Over 1,000	.45
9" x 18"	1 to 100	1.30
	101 to 1,000	1.00
	Over 1,000	.90

(d) Aerial photographic indexes and mosaic copies:

Size	Quantity	Price
		Each
20" x 24"	Any quantity	$1.10

§ 856.5 *Collection of fees.* Payments will be accepted in cash, United States money orders, certified checks, or their equivalent. Negotiable instruments will be drawn payable to the Treasurer of the United States. The Air Force activity making the sale will collect payments in advance, basing charges on the size, type, and prices established in §§ 856.1 to 856.5.

[SEAL] CHARLES M. MCDERMOTT,
Colonel, U. S. Air Force,
Deputy Air Adjutant General.

[F. R. Doc. 57-6542, Filed, Aug. 9, 1957; 8:45 a. m.]

Subchapter F—Reserve Forces

PART 861—OFFICERS' RESERVE

POINT-GAINING ACTIVITIES FOR AIR FORCE RESERVISTS

In Part 861, §§ 861.31 to 861.36 are revised to read as follows:

Sec.
861.31 Purpose.
861.32 Eligibility.
861.33 Definitions.
861.34 Points.
861.35 Constitution of a training period.
861.36 Limitations.

AUTHORITY: §§ 861.31 to 861.36 issued under sec. 8012, 70A Stat. 488; 10 U. S. C. 8012. Interpret or apply sec. 280, 70 Stat. 14; 10 U. S. C. 280.

SOURCE: AFR 45-15, July 10, 1957.

§ 861.31 *Purpose.* Sections 861.31 to 861.36 tell how and when points may be earned and awarded to members of the Air Force Reserve.

§ 861.32 *Eligibility*—(a) *Gratuitous points.* Only reservists in an active status are eligible for award of gratuitous point credits.

(b) *Earned points.* All reservists are eligible for earned point credits except those assigned to the:

(1) Ineligible Reserve Section;

(2) Inactive Status List Reserve Section;

(3) Retired Reserve Section.

§ 861.33 *Definitions*—(a) *Points.* Credits awarded reservists for active duty or inactive duty training, and gratuitous points for Reserve membership.

(b) *Active duty.* Full-time duty with the active establishment, including active duty for training.

(c) *Inactive duty training.* That training performed by reservists while not on active duty for which point credit is authorized under §§ 861.31 to 861.36. It includes unit training assemblies, training periods, instruction, preparation of instruction, appropriate duties, equivalent training, military flying duty, and completion of correspondence courses through the USAF Extension Course Institute.

(d) *Training period.* An authorized period of training, duty, or instruction performed by reservists not on active duty when training as individuals.

(e) *Unit training assembly.* An authorized and scheduled period of training, duty, or instruction including test alerts, conducted by Air Force Reserve Units in Training Category A organized to serve as units in the event of mobilization.

(f) *Active status.* The status of a reservist who is not assigned to the Inactive Status List Reserve Section or Retired Reserve Section.

(g) *Appropriate duty.* Duty which the reservist performs instead of attending a scheduled unit training assembly, when his absence results from causes beyond his control, such as illness or other personal hardship.

(h) *Equivalent training.* Additional inactive duty training performed by reservists who are unable to attend a unit

training assembly scheduled while they are on active duty in support of the active establishment.

§ 861.34 *Points*—(a) *Awarded for active duty.* One point is given for each day of active duty. This includes the active duty performed by a Reserve officer or warrant officer in active military service in other than his officer or warrant officer status (see §§ 861.1 to 861.14).

(b) *Awarded for membership in Reserve.* Except as indicated in § 861.36, fifteen points are given for each retirement year of active status membership in the Reserve of the Air Force. However, the gratuitous points will be pro rated for any retirement year that began April 15, 1955 through August 9, 1956 inclusive, provided that active duty was performed between those dates.

(c) *Awarded for inactive duty training.* (1) One point is given for each type of inactive duty training listed in subdivisions (i) through (viii) of this subparagraph. Except for points awarded under subdivisions (v) and (vi) of this subparagraph, the training session must be a continuous period of normally 4 but not less than 2 hours.

(i) Attendance at a unit training assembly.

(ii) Accomplishment of a period of equivalent training.

(iii) Accomplishment of a period of appropriate duty.

(iv) Accomplishment of a training period. (See § 861.35).

(v) Each 4 hours of flying time performed in military aircraft by rated personnel and recorded on their AF Forms 5, Individual Flight Record (Pilot), or AF Forms 5A, Individual Flight Record (Aircraft Observer), and such personnel are authorized to participate in flying activities. Flying time performed during an authorized training period will be deducted when computing point credit under this subdivision. Such time also will be deducted when performed on a day where two points are awarded for other training, except for correspondence courses.

(vi) For each 3 hours of extension courses satisfactorily completed. Points will be awarded to officers only for completing courses above precommissioning and indoctrination level.

(vii) Duty as instructor as indicated in this subdivision. However, a person will not be credited for instructional duty accomplished at a period or assembly for which he is being credited with points for attendance. This restriction will not affect credit for preparation.

(*a*) Authorized unit training assemblies.

(*b*) Authorized training periods in accordance with paragraphs (b) and (k) of § 861.35.

(*c*) Authorized unit schools.

(*d*) Air Force ROTC, Army ROTC, or Naval ROTC classes.

(*e*) Civil Air Patrol or Air Explorer assemblies and with Ground Observer Corps groups pursuant to an authorized course of instruction when such duty is ordered by competent authority.

(viii) For preparation of a minimum of one hour of instruction, but not to exceed two points for preparation of any one instruction period. If the material is presented more than once, additional points will not be credited for subsequent preparation.

(2) To qualify for the award of points for participation in any type of inactive duty training, the duty must:

(i) Be performed in the person's capacity as a reservist and with a view toward enhancing his mobilization potential.

(ii) Require an outlay of time and effort beyond that required in the normal course of his civilian occupation.

(iii) Have been authorized by competent authority before the training begins.

(iv) Be performed without remuneration other than pay as a member of the Air Force Reserve.

(v) Improve the person's fitness to perform his prospective mobilization duties or improve the fitness of others.

(vi) Be controlled and/or supervised by the military.

(d) *Awarded for attending professional and trade conventions.* Activities within the Air Force desiring to take advantage of a concentration of specialized reservists in attendance at a professional or trade convention may, with prior approval of Headquarters USAF, conduct a seminar for which reservists in attendance may receive points. The seminar must be devoted entirely to military training, be of at least 2 hours in duration, and comply with all requirements of paragraph (c) (2) of this section. Points will not be awarded for attendance at the regular convention program. Requests for credit for attendance at such seminars will be forwarded to: Director of Military Personnel, Headquarters USAF, Attn: Reserve Activities Group, Washington 25, D. C.

§ 861.35 *Constitution of a training period.* A training period may consist of any of the following activities when properly authorized in advance and satisfactorily performed:

(a) Supervised on-the-job training with units or activities of the active establishments of the Armed Forces or their Reserve components.

(b) Group training of mobilization assignees when a part of the on-the-job training programs.

(c) Duties performed under the jurisdiction of the Selective Service System when such duty is also approved by the Director of Selective Service, or his authorized military representative.

(d) Duty relating to procurement planning and industrial mobilization if certified as satisfactorily performed by the Joint Chiefs of Staff, Chief of Staff, USAF, major air commander, or the Chief of the Department of Defense agency under whose jurisdiction the work is performed or their representative.

(e) Recruiting duty.

(f) Duty in connection with the planning, training, administration and supply of the Reserve Forces, including administration, liaison, and maintenance duties with the Civil Air Patrol.

(g) Project training for the unit of assignment.

(h) Duty performed in operation of Military Amateur Radio System supervised network drills.

(i) Duty performed by medical and dental personnel as follows for personnel of any component of the United States Armed Forces and Air Force ROTC students, or for enlistment or appointment therein, or for civilian personnel when such actions are the normal responsibility of the Air Force:

(1) A minimum of two authorized physical examinations for flying or three general physical examinations.

(2) A minimum of two neurological or psychiatric examinations or combination thereof.

(3) A minimum number of the following types of authorized dental examinations (a pro rata combination of various types of examinations is authorized):

(i) Three type-1 examinations.

(ii) Six type-2 examinations. (Standard Form 88, Report of Medical Examination, is included only when X-rays are not taken.)

(iii) Sixty type-4 examinations.

(iv) A minimum of 12 authorized inoculations.

(j) Religious activities.

(k) Scheduled classroom training under supervision of the numbered Air Reserve Centers and the contract school training program.

(l) Flight training performed by rated personnel in military aircraft.

(m) Attendance at seminars as authorized by § 861.34 (d).

§ 861.36 *Limitations.* (a) Simultaneous participation in more than one activity for point gaining purposes is not authorized. For example, points may not be credited for flying time accomplished in connection with an authorized training period or unit training assembly.

(b) Not more than one point will be awarded to a person on any one day unless the participation is of at least 8 hours' duration. Not more than two points will be awarded on any one day.

(c) Not more than 60 points for inactive duty training may be credited for retirement purposes during any one retirement year.

(d) Not more than 365 points (366 points during leap years) for active duty training, inactive duty training or gratuitous points, or combination thereof, may be credited for retirement purposes during any one retirement year.

(e) Gratuitous points will be awarded annually as authorized by § 861.34 (b) to the extent that the maximum points listed in paragraphs (c) and (d) of this section are not exceeded.

[SEAL] CHARLES M. MCDERMOTT,
Colonel, U. S. Air Force,
Deputy Air Adjutant General.

[F. R. Doc. 57-6543; Filed, Aug. 9, 1957; 8:45 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.245 governing the operation of drawbridges across navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, where constant attendance of draw tenders is not required, is hereby amended by revision of paragraph (h) (7) to govern the operation of the Charleston and Western Carolina Railway Company bridge near Seabrook, and the South Carolina Highway Department bridge near Lobeco, South Carolina, as follows:

§ 203.245 *Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.* * * *

(h) *Waterways discharging into the Atlantic Ocean south of Charleston.* * * *

(7) Coosaw River (Whale Branch), S. C.; Charleston and Western Carolina Railway Company bridge near Seabrook and the South Carolina State Highway Department bridge on State Highway No. 28 between Beaufort and Yemassee near Lobeco. From 8:00 p. m. Saturday to 6:00 a. m. Monday and from 8:00 p. m. to 6:00 a. m. on all other days, at least 24 hours' advance notice required.

[Regs., July 23, 1957, 823.01 (Coosaw River, S. C.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.712 (g) is hereby amended to govern the operation of the City of Petaluma highway bridges at "D" and Washington Streets, Petaluma, California, revising subparagraph (2) and revoking subparagraph (3), as follows:

§ 203.712 *Tributaries of San Francisco Bay and San Pablo Bay, Calif.* * * *

(g) *Petaluma Creek.* * * *

(2) *City of Petaluma highway bridges at "D" and Washington Streets, Petaluma.* At least 6 hours' advance notice required, to be given to the Petaluma Police Department, telephone Petaluma 2-2727.

(3) *City of Petaluma highway bridge at Washington Street, Petaluma.* [Revoked.]

[Regs., July 29, 1957, 823.01 (Petaluma Creek, Calif.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

3. In F. R. Document 57-6132, appearing at 22 F. R. 5955 and 5956, July 27, 1957, the first and second latitude readings in § 204.135 (a) are corrected to read as follows: "30°23'10.074"; 29°-32'00"."

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

[F. R. Doc. 57-6561; Filed, Aug. 9, 1957; 8:48 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 24—SANITATION, HEALTH, AND QUARANTINE

ADDITION OF CHANNEL ISLANDS AND CURACAO TO LIST OF DESIGNATED COUNTRIES WHERE FOOT AND MOUTH DISEASE AND RINDERPEST EXISTS

Pursuant to the authority vested in the Governor by § 24.101 of Title 35 of the Code of Federal Regulations as adopted and re-numbered by Canal Zone Order 39 of February 26, 1955, 20 F. R. 1392, § 24.101a as amended by Governor's Regulations of October 14, 1952, 17 F. R. 10559; October 15, 1953, 18 F. R. 7177; October 30, 1953, 18 F. R. 7192; May 28, 1954, 19 F. R. 3419; January 10, 1955, 20 F. R. 411; September 4, 1956, 21 F. R. 6956; and re-numbered by the aforesaid Canal Zone Order 39, is hereby further amended by adding the Channel Islands and Curacao to the list of designated countries in which it is determined that foot-and-mouth disease or rinderpest exists.

(Sec. 1, 39 Stat. 527, as amended; 2 C. Z. Code 371, 372, 48 U. S. C. 1310)

Issued at Balboa Heights, Canal Zone, July 30, 1957.

[SEAL] W. E. POTTER,
Governor.

[F. R. Doc. 57-6551; Filed, Aug. 9, 1957; 8:47 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 36—INDIAN HEALTH

HOSPITALIZATION OF TUBERCULOUS PATIENTS

Notice of proposed rule making and public rule making proceedings have been omitted as unnecessary in the issuance of the following amendment which exempts tuberculous Indians from charges for hospitalization.

Section 36.13 (a) is amended to read:

§ 36.13 *Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel*—(a) *In general.* In order to make the most effective use of funds and facilities available for needed health and medical services, individual Indians who are clearly able to pay the costs of hospital care (and of other major items of service specified in instructions of the Surgeon General) will be encouraged to do so, and services may be conditioned upon payment in appropriate cases. No charge may be made for immunizations, health examination of school children or similar preventive services, or for the hospitalization of Indian patients for tuberculosis.

(Sec. 215, 58 Stat. 690; sec. 3, 68 Stat. 674; 42 U. S. C. 216, 2003. Interprets or applies 42 Stat. 208, sec. 1, 68 Stat. 674, 25 U. S. C. 13, 42 U. S. C. 2001)

Dated: July 8, 1957.

[SEAL] W. P. DEARING,
Acting Surgeon General.

Approved: August 6, 1957.

M. B. FOLSOM,
Secretary.

[F. R. Doc. 57-6566; Filed, Aug. 9, 1957; 8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1459]

[Anchorage 032306]

ALASKA

RESERVING PUBLIC LANDS FOR PROTECTION AND PRESERVATION OF THEIR ARCHAEOLOGICAL AND HISTORICAL VALUES

By virtue of the authority vested in the President 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 in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved under the jurisdiction of the Department of the Interior for the protection and preservation of their archaeological and historical values:

YUKON ISLAND

Beginning at a point at mean high tide on the west side of Yukon Island in Kachemak Bay, Alaska, at approximate latitude 59°31'45" N., longitude 151°30'15" W., thence

S. 70° E., 25 chains;
S. 20° W., 30 chains;
N. 70° W., 23 chains approximately to the line of mean high tide;
Northerly, 35 chains approximately along the line of mean high tide to the point of beginning.

The tract described contains 57 acres.

ROGER C. ERNST,
Assistant Secretary of the Interior.

AUGUST 6, 1957.

[F. R. Doc. 57-6544; Filed, Aug. 9, 1957; 8:45 a. m.]

[Public Land Order 1460]

[BLM 043913]

IOWA

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF ARMY IN CONNECTION WITH CORALVILLE DAM AND RESERVOIR PROJECT

By virtue of the authority vested in the President, 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 in Iowa are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, and reserved for use of the Department of the Army in connection with the Coralville Dam and Reservoir Project:

FIFTH PRINCIPAL MERIDIAN, IOWA

T. 81 N., R. 7 W.,
Sec. 28, lot 1.

The area described contains .33 of an acre.

ROGER C. ERNST,
Assistant Secretary of the Interior.

AUGUST 6, 1957.

[F. R. Doc. 57-6545; Filed, Aug. 9, 1957; 8:46 a. m.]

[Public Land Order 1461]

[Sacramento 047165]

CALIFORNIA

RESERVING PUBLIC LANDS FOR USE OF FOREST SERVICE AS ADMINISTRATIVE SITE

By virtue of the authority vested in the President, 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 in California 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 an administrative site:

MOUNT DIABLO MERIDIAN

T. 9 N., R. 22 E.,
Sec. 11, SW¼NE¼.

The area described contains 40 acres.

ROGER C. ERNST,
Assistant Secretary of the Interior.

AUGUST 6, 1957.

[F. R. Doc. 57-6546; Filed, Aug. 9, 1957; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11861; FCC 57-892]

[Rules Amdt. 3-88]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS; AGUADILLA, PUERTO RICO

In the matter of amendment of § 3.606 *Table of assignments*, rules governing Television Broadcast Stations, Aguadilla, Puerto Rico; Docket No. 11861, Rules Amdt. 3-88.

1. The Commission has before it for consideration a petition filed by Abacoa Radio Corporation, Arecibo, Puerto Rico, on February 7, 1957, for reconsideration of the Report and Order (FCC 57-38) released in this proceeding on January 11, 1957, amending the television Table of Assignments contained in § 3.606 of the Commission's rules and regulations to assign Channel 13 to Aguadilla, Puerto Rico, by deleting Channel 13 from Arecibo and for acceptance and consideration of its comments in opposition to the shift of Channel 13 from Arecibo to Aguadilla. An Opposition to the petition was filed by Hector Reichard of Aguadilla on February 18, 1957, and a Reply thereto was filed by Abacoa Radio Corporation on February 21, 1957.

2. The Commission issued a Notice of Proposed Rule Making in this proceeding on November 2, 1956 (FCC 56-1067) which was published in the FEDERAL REGISTER on November 7, 1956 (21 F. R. 8543), proposing to shift Channel 13 from Arecibo to Aguadilla, Puerto Rico, in response to a petition for rule making filed by Hector Reichard, licensee of standard radio Station WABA at Aguadilla. All interested parties, including Abacoa Radio Corporation, were afforded ample opportunity to submit comments presenting their views, arguments and data relative to the proposed amendment, but no comments were filed. Upon consideration of the matter and further review of Mr. Reichard's petition, the Commission concluded that the proposed amendment would represent a more effective use of available facilities and would serve the public interest. This determination was based on the fact that no interest or demand had been shown for the utilization of Channel 13 at Arecibo, where it had been assigned since 1952; that the petition of Mr. Reichard demonstrated an interest and demand for the utilization of Channel 13 in Aguadilla; that the assignment of the channel to Aguadilla would provide a first local television outlet in that community and bring a first or additional television service to a substantial area and population, and that the proposed channel change would conform to the Commission's rules.

3. In its petition for reconsideration, Abacoa Radio Corporation, permittee of standard radio station WMIA at Arecibo, states that it has been preparing an application for a television station on Channel 13 at Arecibo, and that in December 1956, it purchased a building to house the offices and studios of its radio station and its proposed television station. Abacoa alleges that its counsel had not advised it of the petition of Hector Reichard to shift Channel 13 to Aguadilla and that its principals did not understand the nature of the rule making proceeding.

4. In support of its petition for reconsideration, Abacoa Radio Corporation urges that there are no facts which would justify deleting Channel 13 from Arecibo in order to assign it to Aguadilla; that some of the statements made by Hector Reichard in his petition and reply are unsupported by any facts or are contrary to the facts. Abacoa contends that the Grade A contours of the two existing San Juan stations do not cover Arecibo; that both Aguadilla and Arecibo are within the Grade A service area of the existing Mayaguez station (Station WORA-TV) and that Aguadilla may receive Grade A service from Channel 3 in Mayaguez while Arecibo will not. Abacoa also claims that the size, location, and character of Arecibo requires that Arecibo be preferred over Aguadilla in the allocation of Channel 13; that it is the larger city—the sixth largest city in Puerto Rico— has greated commerce and industry, and that an Arecibo station would render superior service to the inland areas. Abacoa urges that retention of Channel 13 at Arecibo will more fully satisfy the priorities of the Sixth Report and Order and provide the only practical opportunity for Arecibo to have a local outlet. If Channel 13 is retained at Arecibo, Abacoa states that it or its principles will apply for the channel.

5. In opposition, Hector Reichard urges that the reassignment of Channel 13 from Arecibo to Aguadilla in warranted because of the lack of any interest in the utilization of Channel 13 at Arecibo and the need of Aguadilla for a local television outlet and represents that he will file an application for a station to operate on Channel 13 at Aguadilla. He urges that the adverse effects of topographical conditions on television reception in Aguadilla from San Juan or Mayaguez is evident from reports of residents in the area, and that the terrain will also preclude Grade A service from stations at Ponce and Caguas. He urges that there is a great need for a local outlet to serve Aguadilla, as well as to furnish Grade A service to the nearby communities of Quebradillas, Isabella, Meca, San Sebastian, Aguada, and Rincon. Abacoa points out in its reply that none of these communities is in the interior of the Island and that television reception in the area can be expected to be materially improved when WORA-TV at Mayaguez increase its power,[1] and a new station commences operation on Channel 3.

6. As we have previously stated, our determination that the public interest would be served by shifting Channel 13 from Arecibo to Aguadilla was based on the apparent lack of interest in the utilization of Channel 13 at Arecibo in contrast to the demonstrated interest of Aguadilla for the utilization of Channel 13 to serve the needs of that community. It is now apparent, from the petition of Abacoa, however, that there is, in fact, an interest and demand for the utilization of Channel 13 at Arecibo.

7. Arecibo and Aguadilla are only about 28 miles apart. A station on Channel 13 in either Arecibo or Aguadilla would provide Grade A service to the other community. In view of the demand for the channel manifested in each community and the fact that no other channel is available for assignment in the area, we believe that, rather than determining at this time in which community the frequency should be employed, we should assign Channel 13 to both Arecibo and Aguadilla jointly, making the frequency available upon application for use in either community.

[1] Application of Supreme Broadcasting Company, Inc., of Puerto Rico to increase power of WORA-TV on Channel 5 from 1.48 kw to 29.5 kw granted January 4, 1957 (BMPCT-4404).

8. 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.

9. In view of the foregoing: *It is ordered*, That effective September 6, 1957 the Table of Assignments contained in § 3.606 of the Commission's rules and regulations, is amended, insofar as the communities named below are concerned, as follows:

(a) Delete from the table Aguadilla, Puerto Rico.

(b) Insert in the table under Puerto Rico:

City	*Channel No.*
Arecibo-Aguadilla	13+

(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: August 1, 1957.

Released: August 7, 1957.

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

[F. R. Doc. 57-6577; Filed, Aug. 9, 1957; 8:50 a. m.]

[Docket No. 12041; FCC 57-891]

[Rules Amdt. 3-87]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS; EUREKA, CALIF., AND BROOKINGS, OREG.

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, Eureka, California, Brookings, Oregon; Docket No. 12041; Rules Amdt. 3-87.

1. The Commission has before it for consideration the conflicting proposals set forth in its Notice of Proposed Rule Making (FCC 57-570) released on June 3, 1957, and published in the FEDERAL REGISTER on June 6, 1957 (22 F. R. 3972) proposing to assign Channel 6— to either Eureka, California, or Brookings, Oregon, in response to petitions filed by Carroll R. Hauser and Oregon Broadcasting Company.[1]

2. Comments were filed by Carroll B. Hauser and Oregon Broadcasting Company. A number of letters and petitions from individuals, groups, and officials in the Brookings area were filed supporting the assignment of Channel 6 to Brookings.

3. Eureka, California, has been assigned Channels 3 and 13. Station KIEM-TV presently operates on Channel 3 and Carroll R. Hauser holds a construction permit for Channel 13. Eureka has a population of 23,058 and Humboldt County, in which it is located, a population of 69,241 persons. Brookings, Oregon is not presently listed in the Table of Assignments. Brookings has a population of 2,048 and Curry County, in which it is located, a population of 6,048 persons.

4. In support of his request for the assignment of Channel 6 to Eureka, Carroll R. Hauser submits that he is the permittee of Station KHUM-TV, authorized to construct on Channel 13; that in view of the rough terrain in the region and the fact that the population is scattered over a wide area, there is need for a low VHF channel; that such a channel would provide the widest possible coverage and competitive quality with the other station in the community; and that it would conform to all the rules. Hauser urges that the assignment of Channel 6 to Eureka would be consistent with section 307 (b) of the Communications Act and the objectives outlined in Docket 11532 to improve the opportunities for more effective competition among a greater number of stations. Finally, Hauser suggests that the assignment of Channel 8, 10, or 12 could be made to Brookings in full conformance with the rules and would serve the needs of the Brookings area.[2]

5. In support of its request for the assignment of Channel 6 to Brookings, Oregon Broadcasting Company urges that Brookings does not have a channel assigned to it and does not receive any satisfactory television service; that on the basis of its experience in operating stations in the general area, it is convinced that a low-band VHF channel is necessary in view of the rugged terrain in the area; that Eureka has two VHF assignments with one station in the city and another outside providing service to Eureka. Oregon argues that the need for a low-band VHF channel is not as great in Eureka as it is in Brookings. In its reply comments Oregon submits that it was aware of the fact that other VHF channels were available for assignment in Brookings but requests the assignment of Channel 6 to that community in view of its position that a low-band channel is needed to insure a successful technical and commercial operation.

6. After a careful review of all the comments and data submitted in this proceeding, we are of the view that the assignment of Channel 6 to Eureka would serve the public interest and is to be preferred to its assignment in Brookings. Eureka is the much larger community. The assignment of Channel 6 would make possible the commencement of a second competitive service in that community. Since other channels are available to Brookings, the adoption of the Hauser proposal to assign Channel 6 to Eureka does not preclude the assignment of a VHF channel to Brookings. We are adopting the assignment of Channel 8 to Brookings, as proposed by Hauser. With respect to the relative needs of Brookings and Eureka for a low-band channel, we wish to emphasize that the rules do not make any distinction among the VHF channels for assignment purposes, nor have we taken any such differences into account on previous occasions. However, while the terrain in the immediate vicinity of Brookings appears to be more rugged than that near Eureka, the terrain in the general area at a distance from Eureka appears to be as rugged, if not more so, than the terrain outside of Brookings. In view of this and in view of the relative size of the two communities, we are of the view that Eureka warrants the assignment of the lower channel rather than Brookings.

7. Authority for the adoption of the amendments adopted 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.

8. In view of the foregoing: *It is ordered*, That, effective September 6, 1957, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended, insofar as the communities named are concerned, as follows:

1. Add to the Table under the State of Oregon:

City	*Channel No.*
Brookings	8+

2. Amend to read as follows:

City	*Channel No.*
Eureka, Calif.	3—, 6—, 13—

(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: August 1, 1957.

Released: August 6, 1957.

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

[F. R. Doc. 57-6578; Filed, Aug. 9, 1957; 8:51 a. m.]

[Docket No. 12074; FCC 57-889]

[Rules Amdt. 3-86]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS; SOUTH BEND, IND.-AURORA, ILL.

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, South Bend, Indiana-Aurora, Illinois; Docket No. 12074, Rules Amdt. 3-86.

1. The Commission has before it for consideration its Notice of Proposed Rule Making issued in this proceeding on July 2, 1957 (FCC 57-702) in response to a petition filed by Michiana Telecasting Corp., permittee of television Station WNDU-TV, operating on Channel 46 at South Bend, Indiana, for rule making to amend § 3.606 *Table of assignments*, Television Broadcast Stations, so as to assign Channel 16 to South Bend by sub-

[1] Hauser also requested that the Commission order him to show cause why his outstanding authorization for KHUM-TV should not be modified to specify operation on Channel 6 in lieu of Channel 13. However, the Commission in the Notice of Proposed Rule Making denied this request since Channel 6 may be added to Eureka without affecting Channel 13.

[2] Hauser's comments include other contentions which go to the motives of Oregon Broadcasting Company and licensee qualifications rather than to the merits of the proposals herein. Oregon filed a reply to these comments. We are of the view that these comments are not germane to the instant rule making and will not be considered further.

stituting Channel 75 for Channel 16 at Aurora, Illinois, as follows:

City	Channel No.	
	Delete	Add
South Bend, Ind.		16
Aurora, Ill.	16	75

Interested parties have been afforded an opportunity to submit comments directed to the proposal and to advance counterproposals.

2. In support of its proposal, petitioner asserts that Station WNDU–TV operates in a "UHF island"; that the lower UHF channels are more effective for improving service; that there are no applications for Channel 16 in Aurora; and that the proposal conforms with our rules. Petitioner further requests that, concurrently with the finalization of the proposed amendment, the Commission grant its presently pending application for modification of the WNDU–TV authorization to specify operation on Channel 16.

3. Truth Publishing Company, Inc., licensee of television Station WSJV, Elkhart, Indiana, filed comments supporting the instant proposal and submitting a counterproposal to allocate Channel 28+ to South Bend-Elkhart, WSJV further requests that it be directed to show cause why its authorization should not be modified to specify operation on Channel 28+ at South Bend-Elkhart. This counterproposal would necessitate a shift from Channel 28+ to 83 at Elgin, Illinois, and from Channel 42 to 40+ at Benton Harbor, Michigan. It also would require the educational reservation at South Bend to be shifted from Channel 40+ to 52.

4. South Bend Tribune, licensee of Station WSBT–TV, South Bend, Indiana, also filed comments supporting the proposal, and submitted a counterproposal to assign Channel 22 to South Bend by shifting the assignment in Waukegan, Illinois from Channel 22+ to 79+ and the allocation in Kalamazoo, Michigan, from Channel 36— to 46. Under this proposal Channel 34 could be assigned to Plymouth, Indiana. WSBT–TV also asks that it be required to show cause why its authorization should not be modified to specify operation on Channel 22 at South Bend.

5. We believe that the public interest would be served by finalizing the instant proposal and by modifying the authorization of Michiana Telecasting Corporation to specify operation of Station WNDU–TV on Channel 16 in South Bend.

6. The WSJV and WSBT–TV counterproposals do not conflict with the action which we are taking in this proceeding. We believe, however, that all interested parties should be afforded an opportunity to file comments on the WSJV and WSBT–TV counterproposals before final action is taken on them. Accordingly, these proposals are the subject of a Notice of Proposed Rule Making in a separate proceeding which we are instituting today.

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

8. In view of the foregoing: *It is ordered*, That, effective September 6, 1957, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations, is amended, insofar as the communities named are concerned, to read as follows:

City	*Channel No.*
South Bend, Ind.	16, 34—, *40+, 46
Aurora, Ill.	75

9. *It is further ordered*, That, effective September 6, 1957, the outstanding construction permit of Michiana Telecasting Corporation for the operation of Station WNDU–TV is modified to specify operation on Channel 16 in lieu of Channel 46 at South Bend, Indiana, subject to the following conditions:

(a) The submission to the Commission by August 20, 1957, of all necessary information, in addition to that already filed with the Commission in its presently pending application, for the preparation of engineering specifications to cover operation of Station WNDU–TV meeting all requirements of the Commission's Rules for operation at South Bend, Indiana, on Channel 16;

(b) Construction looking to a change of operation of Station WNDU–TV not to commence until specifically authorized by the Commission after the information requested in (a), above, is submitted;

(c) In the event that Michiana Telecasting Corporation is unable to commence operation of Station WNDU–TV in full accordance with the Commission's rules by the effective date specified above, the Commission will consider a request for continued operation of the station, in accordance with the terms and conditions of the current WNDU–TV special temporary authorization, until operation on Channel 16 can be commenced;

(d) Acceptance of said modification of its construction permit for Station WNDU–TV to operate on Channel 16 shall be deemed a surrender of any and all rights that Michiana Telecasting Corporation may have with respect to operation on Channel 46; and

(e) That Michiana Telecasting Corporation advise the Commission in writing by August 15, 1957, whether it accepts the modification of its construction permit for operation of Station WNDU–TV at South Bend, Indiana, subject to the conditions described above.

(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: August 1, 1957.

Released: August 7, 1957.

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

[F. R. Doc. 57–6579; Filed, Aug. 9, 1957; 8:51 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 113—BERING RIVER—YAKATAGA AREA AMENDMENT

TAKING OF COHO SALMON

Basis and purpose. In order to permit more taking of coho salmon in the Bering River district, the same as in the adjacent Copper River area, it is the intention to relax the weekly closed period to the statutory limit.

Therefore, effective immediately upon publication in the FEDERAL REGISTER, § 113.5 is amended in the Proviso to read: "*Provided*, That these restrictions shall not apply in the Bering River district after August 9."

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.)

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

DONALD L. MCKERNAN,
Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 57–6627; Filed, Aug. 9, 1957; 10:56 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 937]

[Docket No. AO–289]

HANDLING OF MILK IN BATTLE CREEK-KALAMAZOO, MICH., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practices and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR 900), notices is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Battle Creek-Kalamazoo, Michigan, marketing area. Interested parties may file written exceptions to this decision

with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Kalamazoo, Michigan, on November 26–29, 1956, pursuant to notice thereof which was issued November 5, 1956 (21 F. R. 8663).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a milk marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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

1. *Character of commerce.* The handling of milk produced for the Battle Creek-Kalamazoo, Michigan, marketing area, as defined herein, is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and its products.

While the proposed marketing area lies wholly within the State of Michigan, included within the area are two Federal government installations, namely Fort Custer and Percy Jones Hospital. Contracts for milk and its products to serve these installations are issued on a competitive bid basis with milk dealers from all portions of the area receiving such contracts from time to time.

Farm milk supplies for the proposed marketing area are inextricably interwoven with farm supplies for six Federally regulated markets and with those of several manufacturing plants doing business in the current of intertsate commerce.

At two supply plants under the Chicago Federal order manufacturing facilities are operated which also receive surplus supplies from the Battle Creek-Kalamazoo market. At least one of these two Chicago plants receives surplus milk from this area on a regular month to month basis and on occasion, as it did in the fall of 1956, supplies fluid milk to dealers in the marketing area. This Chicago supply plant has as its primary customer a handler at Hammond, Indiana. Producers supplying the marketing area and these two Chicago plants are intermingled over a wide area.

The farms from which milk is received at two supply plants for the Federally regulated Detroit market are in the area from which handlers for Battle Creek-Kalamazoo compete for their supply. One of these two Detroit plants is located within the proposed marketing area. The other Detroit supply plant distributes milk and its products on routes within the area.

A supply plant for the Federally regulated Cleveland, Ohio, market, located at Coldwater, Michigan, competes for a supply of fluid milk with dealers in the area proposed to be regulated. This plant does not contain facilities for the manufacture of dairy products. Milk that cannot be used in fluid form in the Cleveland market is transported to Fort Wayne, Indiana, for manufacturing into dairy products.

Producers located in the State of Michigan whose farms are intermingled with those of producers supplying the Battle Creek-Kalamazoo area supply handlers serving the Federally regulated markets of Toledo, Ohio, Fort Wayne and South Bend, Indiana. There is frequent interchange of producers between these other Federally regulated markets and the Battle Creek-Kalamazoo market.

A milk dealer that would be regulated by the proposed marketing agreement and order receives both inspected and uninspected supplies of milk. This handler is also a major handler of excesses in supply for the Kalamazoo portion of the proposed area. The excess of fluid milk is received in the manufacturing part of the plant and a substantial portion of the total manufactured milk is disposed of as either ice cream mix in the State of Indiana or as powdered milk in the states of Ohio, Indiana and Illinois.

Manufacturing milk plants located at Sturgis and Wayland, Michigan, and Angola, Indiana, also compete for milk supplies in the Battle Creek-Kalamazoo milkshed. Procurement for the Wayland and Angola plants is partly through receiving plants at Hastings, Charlotte and Homer, Michigan. Dairy products manufactured at these plants are widely distributed in interstate commerce. In addition milk for manufacturing use moves directly in interstate commerce from the Charlotte and Homer receiving plants to the Angola manufacturing plant. The procurement of milk for all these plants is in competition with procurement of milk for the proposed marketing area. As with the supply for the Federally regulated markets there are producers shifting between the manufacturing plants and the Battle Creek-Kalamazoo fluid milk market.

Milk received in a plant located in Toledo, Ohio, is sold on routes in the proposed marketing area in competition with handlers that would be regulated by this proposed marketing agreement and order. A handler under the Federally regulated Upstate Michigan order also sells milk in the marketing area. A Lansing, Michigan, milk dealer with sales and supplies interwoven with the Detroit market distributes milk in the proposed area through vendors.

Thus the handling of milk in the Battle Creek-Kalamazoo marketing area affects, and is affected by, the prices paid producers in other Federally regulated markets and by the manufacturing milk plants. Price relationships which interrupt or interfere with the distribution of milk in this region to the fluid and manufacturing markets in accordance with the relative value of milk for such outlets tend to burden, obstruct and affect interstate commerce in milk and its products.

2. *Need for regulation.* The marketing and pricing conditions in the Battle Creek-Kalamazoo marketing area require the issuance of a milk marketing agreement and order to establish and maintain orderly marketing conditions. Such an order will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

Two cooperatives represent a majority of dairy farmers producing milk for handlers in the proposed marketing area. Neither cooperative operates any form of milk plant, but attempts to negotiate prices handlers shall pay for milk produced by their members. The cooperative association representing producers located generally in the eastern half of the marketing area currently is able to negotiate prices on a classified basis with all handlers located in or near Battle Creek, Michigan. This was not true, however, prior to February 1956, nor do such prices apply to all milk sold in Battle Creek and its environs. The association, as a result of competition from milk supplies purchased on a flat price basis, provided a reduced price for milk handlers sell to particular sales outlets in order to maintain the Class I milk volume for their producers. In so doing inequities, with respect to both costs to handlers and returns to producers, develop which make for unstable marketing conditions. This same cooperative in bargaining for prices to be paid by handlers located in southeastern Calhoun County has been unable to maintain its "quoted" prices and has in an attempt to maintain Class I sales outlets for its members provided special Class I prices as much as one dollar per hundredweight lower than the stated price for fluid milk when sold in half-gallon containers. In spite of such price arrangements, milk produced by local farmers and available for Class I use has been replaced by milk from other markets in the State and from Toledo, Ohio. The cooperative association supplies its handlers their total needs. The result of all these practices has been that local producers have been forced to move large quantities of milk to a Chicago supply plant which also maintains manufacturing facilities. From time to time this Chicago plant supplies bulk milk to handlers in the marketing area.

Another cooperative association representing producers generally located in the western half of the marketing area currently handles approximately 70 percent of the milk distributed or manufactured by handlers located in or near Kalamazoo, Michigan. From 1950–54 the association handled 80 percent and from 1940–50, 90 percent of the supply for this portion of the marketing area. Three handlers selling milk in the mar-

keting area pay producers on a flat price basis in contrast to the use classification and base-excess plan used by the cooperative association. A fourth handler, also a cooperative, supplying a supermarket chain is located some distance from the marketing area. The producers of this association are not paid on a base-excess plan, but generally follow pricing plans established by the Federally regulated South Bend, Indiana, market.

Dealers purchasing their milk supplies on flat pricing plans have generally restricted their purchases to their needs for fluid milk and have depended upon outside supplementary sources for needed reserve supplies. Such dealers obtain their milk supplies for fluid use at less than the Class I price negotiated by the association with other dealers, but pay their producers prices equal to or more than the returns to association members who carry a disproportionate share of the cost of maintaining the reserve supplies for the market. The diminishing percentage of the market supplied by the association is partly a result of this situation.

The larger bargaining cooperative in the Kalamazoo part of the marketing area has, as a result of the above mentioned pricing plans, given one handler in particular, and others on occasion a lower Class I price for specific sales outlets. This association supplies the daily needs of each of its cooperating handlers, transporting any excess over these needs to a handler in the marketing area that also has facilities for the manufacture of milk into ice cream mix, powdered milk and butter.

There is incomplete information on receipts and utilization in the marketing area. This is due in part to the following factors:

(a) Lack of a thorough and complete auditing program in the market;

(b) Unknown amounts of milk and its products being sold in the area from sources other than local producers;

(c) Local producers associations do not sell milk to all handlers in the area; and

(d) The apparent unwillingness of handlers in the proposed marketing area to offer direct testimony regarding amounts and movement of milk or general market conditions.

A producer shipping to a handler not receiving any milk from the cooperative association testified that prices paid by this handler were determined on the basis of the retail price regardless of prices established by the cooperative association.

At the time of the hearing the stated Class I milk price was $5.04 in the western part of the marketing area and $5.25 in the eastern portion. In both instances, however, the record testimony noted differences from these prices.

Variations in pricing plans and in net prices paid producers reflect different raw material costs to the various dealers in the marketing area. Unequal costs among milk dealers tend to stimulate price reductions by competitors. Such practices are contrary to the interests of producers and over a period of time may jeopardize an adequate supply of pure and wholesome milk.

As already indicated widely varying prices received by producers tend to shift producers (a) among handlers in the area or (b) in and out of the market to other fluid or manufacturing outlets. Such shifts may become frequent enough to jeopardize a dependable supply of milk for the market.

The marketing agreement and order as recommended herein will implement the policy declared in the Agricultural Marketing Agreement Act of 1937, as amended, of establishing and maintaining orderly marketing conditions by providing:

(1) A determination of prices to producers under a regular and dependable method at levels consistent with the policy established by the act;

(2) An impartial audit of handlers' records of receipts and utilization to further insure uniform prices for milk purchased;

(3) The establishment of uniform prices to handlers based on the utilization made of the milk;

(4) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns for sale of reserve milk;

(5) Uniform rules for all producers for the operation of a seasonal production incentive plan which will encourage all producers to adjust production to a more even pattern;

(6) A system of impartial checking of all producer milk in respect to weight and butterfat content; and

(7) Market-wide information in respect to all receipts, utilization and intermarket movements of milk.

3. *Order provisions*—(a) *The scope of regulation:*

(1) *Marketing area.* The Battle Creek-Kalamazoo marketing area should include all the territory within the boundaries of: Kalamazoo and Calhoun Counties; Otsego and Gun Plain townships in Allegan County; all in the State of Michigan.

Proponent producers proposed the marketing area should include, in addition to the above stated territory, Assyria, Baltimore and Johnstown townships in Barry County; Bellevue and Kalamo townships in Eaton County; Sherwood and Union townships in Branch County and Lockport township in St. Joseph County, all in the State of Michigan. A handler proposed that Watervliet township in Berrein County, Michigan, be included in the marketing area. A cooperative association with a plant presently regulated under the Chicago order proposed that all of St. Joseph County, Michigan, be included in the marketing area.

The problems complained of by the two cooperatives representing a majority of the producers center primarily around the handling of milk in plants which are either located in or serve Calhoun and Kalamazoo Counties, Michigan. These two counties represent the concentration of population in the entire region under consideration. The principal metropolitan areas located in these two counties are Battle Creek and Kalamazoo. It appears orderly marketing in this region may be best achieved by regulating the counties in their entirety rather than to specify particular communities for regulation. The townships of Gun Plain and Otsego in Allegan County are directly north of and contiguous to Kalamazoo County. The cities of Plainwell and Otsego are located in these two townships and are considered a part of the Kalamazoo metropolitan area. Milk distributors located in these two townships have sales in Kalamazoo County. Kalamazoo distributors have sales in these two townships in competition with local distributors.

Health regulations are substantially similar throughout the area. The health regulations of the State of Michigan provide a uniform minimum standard which may be somewhat modified by more rigid requirements by local health authorities. State of Michigan health authorities work in conjunction with health authorities of Calhoun and Kalamazoo Counties with respect to inspection of dairy farms and plans serving this marketing area. The degree of similarity of minimum health standards, including the acceptance of supplemental or emergency supplies, throughout the area justifies the uniform application of prices to all inspected milk marketed within these two counties.

The inclusion of seven townships in Barry, Branch and Eaton Counties is not necessary because sales in these townships are quite limited. These townships are predominantly rural in character.

The record testimony does not show that the inclusion of Watervliet township in Berrien County and Lockport township in St. Joseph County or St. Joseph County in its entirety would serve any good purpose. Proponents failed to support the inclusion of Lockport township or Watervliet township in Berrien County. The proponent for the inclusion of St. Joseph County operates a pool plant in the Chicago marketing area and only distributes packaged milk purchased from a handler distributing within the proposed marketing area. Handlers located within the marketing area as proposed have only limited sales, if any, in St. Joseph County which are of minor competitive importance.

The issuance of an order for the marketing area as proposed will bring under regulation all the milk in the sales area represented by milk dealers located within the proposed Battle Creek-Kalamazoo marketing area. The area so proposed has been defined on the basis of extensive interrelationship of supply and distribution. The area is a continuous, homogeneous one within which milk distributors should be charged the same price for milk used in a given class and producers be paid a uniform price.

(2) *Milk to be regulated.* The milk to be regulated by the proposed marketing agreement and order should be that which is regularly delivered to plants from which milk is regularly distributed on routes in the marketing area, or which are regular sources of supply for such plants. To be eligible for such distribution milk must be produced, processed, and distributed in conformity with applicable health regulations. Provision should be made to designate clearly what milk will be subject to the pricing and pooling provisions of the recommended

marketing agreement and order. For this reason, definitions of handler, plant (various types), producer, producer milk, and other source milk should be provided.

A handler should be defined as any person who operates: (1) a pool plant as hereinafter defined, (2) a plant from which Class I milk is processed, packaged and distributed on routes within the marketing area, and (3) any cooperative with respect to the milk of any producer which such cooperative association causes to be diverted from a pool plant by delivery directly from producer's farms to a nonpool plant for the account of such cooperative association. The handler receives the milk of producers and thus must be held responsible for reporting its receipts and utilization. The handler is the one responsible for the payment for producer milk at not less than specified minimum prices. In case a person operates more than one plant at which milk is to be priced, he should be a handler with respect to the combined operations of such plants. If a handler also operates an unregulated plant(s), this definition is not intended to include such person in his capacity as an operator of such type of plant(s). Producer-handlers and other operators of distributing plants should be handlers in order that such persons shall report to the market administrator to determine their status at any given time.

The definition of a pool plant should be such as to determine which producers, as hereinafter defined, are to be included in the determination of a market-wide uniform price to producers. Some plants have received milk from local dairy farmers and distributed most of such milk as fluid milk products in the proposed marketing area over a period of several years. There are other plants that fall into one of two categories, (a) distributing plants with a primary interest in other fluid markets but distributing milk within the area or (b) plants at which milk is received directly from dairy farmers and delivered in bulk to distributing plants, which are generally known as supply plants. There are two distributing plants not regulated by any Federal milk order located outside the marketing area that currently sell fluid milk products within the proposed marketing area, but have their primary market elsewhere. Milk distributors in this market do occasionally receive bulk supplies of milk during the short season of production and thus the opportunity to qualify supply plants is provided. Specific requirements for pool plants are therefore needed to define the supply which is generally regarded as an integral part of this fluid market. This can be accomplished by first defining a distributing plant and a supply plant.

A distributing plant should be defined as a plant at which fluid milk products, conforming to the sanitation requirements of any duly constituted health authority having jurisdiction in the marketing area, are processed and packaged and from which fluid milk products are disposed of on route(s) in the marketing area. This definition is not intended to include that portion of a plant building which is physically segregated and separately operated in which no fluid milk products are processed or packaged, and from which no fluid milk products are moved to any plant from which routes are operated.

A supply plant should be defined as a plant at which milk produced in conformity with health regulations for the marketing area is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

A pool plant should meet certain performance standards in order to determine its status as a regular and substantial supplier of fluid milk in the marketing area. In order to qualify as a pool plant a distributing plant should (1) dispose of 25 percent or more of receipts from dairy farmers and supply plants as fluid milk products on routes in the marketing area and (2) have a total disposition of fluid milk products on routes of 50 percent or more of receipts of fluid milk products from dairy farmers and supply plants. In order to qualify as a pool plant a supply plant should move 50 percent or more of receipts from dairy farmers to a distributing plant, as herein defined. If a supply plant qualifies on this basis during each of the months of August through January, it should be able to retain pool plant status February through July.

The supply area for the Battle Creek-Kalamazoo marketing area overlaps the supply area of other fluid markets and manufacturing milk production areas. Therefore, the previously stated pool plant requirements are necessary to insure (1) that the producers sharing in the uniform price of the market pool be those delivering to plants from which a substantial portion of the milk received at such a plant is disposed of as fluid milk products in the marketing area and (2) that the receipts of those plants which primarily serve markets outside the marketing area be excluded from sharing in the pool. Those plants that make sales of fluid milk products in the marketing area that represent less than 25 percent of total receipts from dairy farmers or which dispose of a majority of receipts from dairy farmers as manufactured dairy products cannot be regarded as a part of the Battle Creek-Kalamazoo fluid milk market.

The proponent cooperative associations proposed that 20 percent of receipts from dairy farmers be disposed of as Class I in the marketing area as a requirement for pooling milk received at a distributing plant. Proponents supported the provision on the basis that such sales in the marketing area needed regulation to insure that all handlers selling in the market area be subject to the same minimum prices, but such handlers should be permitted to pay their dairy farmers on an individual basis. A cooperative association operating a distributing plant that would be regulated by such a provision testified that the 20 percent requirement should be increased to 25 percent. The sales of this association in the proposed marketing area in relation to receipts from dairy farmer members are approximately 20 percent. Thus a requirement of 20 percent would create an unstable marketing situation—pooling such a plant one month and not the next. A requirement that 25 percent or more of receipts from dairy farmers and supply plants be route disposition of Class I milk in the marketing area will more effectively assure that a plant participating in the market-wide pool will have such a substantial proportion of its sales in the marketing area as to warrant the conclusion that the Battle Creek-Kalamazoo market is a primary market for such plant. On the other hand, handlers whose principal distribution of fluid milk products is outside the marketing area will not be required to equalize producer payments on such sales so long as their distribution in the area is less than 25 percent of receipts from dairy farmers and supply plants.

Distributing plants normally have a high proportion of their receipts from dairy farmers used as Class I milk, usually more than 50 percent. A requirement that a distributing plant to have its receipts pooled must have 50 percent or more of its receipts from dairy farmers and supply plants disposed of on routes either in or out of the marketing area, will serve to distinguish those plants that may qualify as pool plants through route distribution from those which must qualify as supply plants. Route is defined in the order to include deliveries of fluid milk products in packaged form to other milk plants so that the plant at which the milk is processed and packaged will receive credit toward pool plant qualification for any interplant movements in such form, and subsequent provisions of the order make the processing and packaging plant accountable for such milk whether or not it qualifies as a pool plant.

The Battle Creek-Kalamazoo market has so far been supplied from dairy farmers delivering directly to distributing plants. The fact that occasional bulk supplies of milk are received by handlers in the proposed marketing area plus the available supply from nearby milk plants suggests some provision should be made to define supply plants and establish requirements in the event such a plant(s) should enter the market. In view of the requirements herein adopted for distributing plants, it is appropriate that the shipping requirements for supply plants should be 50 percent or more of receipts from dairy farmers to such distributing plants in the event such supply plant should enter the market. If a supply plant meets the required standards during the short supply season (August-January) compliance as a pool plant would then be retained during the balance of the year (February–July). These standards will require such supply plants that qualify to have a primary interest in supplying the Battle Creek-Kalamazoo market, and an opportunity to share in market-wide pooling at all times if it establishes its association with the market during the season of normally low supplies.

Producers proposed that handlers with plants located outside the marketing area but selling small quantities on routes within the marketing area should be exempt from the pricing and payment provisions, such handlers to be subject

to reporting and auditing provisions. It was proposed the exemption should be based on a limitation of about 600 pounds per day sold on routes operated wholly or partially in the marketing area. Sales within the area, rather than on routes of which varying proportions may be in the area, provide an entirely feasible basis of determination for the Battle Creek-Kalamazoo area, since the area boundaries are principally rural points. In view of the provisions herein provided for partial regulation of nonpool handlers whose sales may exceed the exemption limit, and the use of sales only within the marketing area, it is concluded that a smaller exemption limit should be provided. Handlers whose sales do not exceed an average of 150 points (one point being defined as one-half pint of cream or one quart of any other fluid milk product) of Class I sales per day disposed of during the month in the marketing area, should be exempt from pricing and payment requirements of the order.

It was proposed that a handler whose plant failed to qualify as a distributing plant but which had sales of fluid milk products on routes in the marketing area in excess of an average of 150 points per day should be required to make payment to the equalization fund if the value of his milk at class prices of the order exceeded his payments to dairy farmers who would be considered producers had such plant been a pool plant. These nonpool handlers must report receipts and utilization of dairy products handled to determine their pool status and obligations. Payments made to dairy farmers are likewise available. If through choice or competitive conditions payments to dairy farmers equal or are greater than amounts that the order would provide at class prices on the entire utilization of such plants, no additional payments are necessary to insure that the cost of milk to the nonpool handler is no less than the minimum prices that pool handlers are required to pay. Under the conditions prevailing in the Battle Creek-Kalamazoo area the nonpool handler would have no competitive advantage, and producers regularly supplying the market needs for inspected milk would be protected from competition of cheaper milk. It was proposed that any deficit by which payment to farmers were less than the value of milk at class prices be assigned to procurement of milk for Class I purposes, and be prorated to sales in the Battle Creek-Kalamazoo marketing area. Such an assignment, however, would not in all cases prevent such handlers from having a competitive advantage over pool handlers. It is concluded that payment of the full deficit is required to insure that the nonpool handler has no procurement advantage as compared with fully regulated handlers, and to protect the integrity of the classified price plan of the order, unless this amount exceeds an amount computed by multiplying the volume of Class I milk sold in the marketing area by the difference between the Class I and Class II prices. It may safely be assumed that milk acceptable for fluid distribution in the marketing area cannot be procured for less than the Class II (manufacturing milk) price, and that payment of this amount will likewise prevent competitive advantage accruing to the nonpool handler.

Such provision will prevent competitive advantage while recognizing payments that nonpool handlers choose to make to their dairy farmers. If therefore should be adopted. Similar provisions are included in several other Federal milk orders and have proven satisfactory as a means of effectuating the regulation. The nonpool handler should also pay his pro rata share of the costs of administration of the order. Complete verification of receipts, utilization and payments is required if the handler is to be given credit for payments as related to the classified use value of his milk. Accordingly administrative expense should be determined on the same basis as for fully regulated plants. Should the handler elect, when filing his report, to make payment to the pool at the difference between the Class I and Class II prices with respect to sales in the marketing area, expenses of administration will be assessed only with respect to such sales, since need for verification will then be confined to that volume.

Certain limitations on the applicability of these provisions should be made in case the nonpool plant does not receive milk from dairy farmers in a volume substantially equal to the Class I disposition of such plant. Unless receipts from dairy farmers (or from other plants of the same handler for which receipts, utilization, and payments may be included in the computation) are substantially as much as Class I utilization at the nonpool plant, effective comparison between class volumes and payments cannot be made, and the handler should be required to pay on the alternative basis of the difference between class prices.

In order not to require the alternative basis in temporary periods of short supply a tolerance of 5 percent deficit in supply from dairy farmers is permitted. Furthermore, milk supplies received from other plants operated by the same handler may be substituted for receipts from dairy farmers for purposes of the requirement, if receipts, utilization and payments to dairy farmers at such plants are made available for inclusion in the computations. The operator of one plant which will probably be subject to these provisions operates another plant, for which at the time of the hearing a new building was under construction. The record is somewhat indefinite as to the extent to which operations of these two plants may in the future be combined. Under these circumstances it is desirable that order provisions be such as to provide for the possibility of such combination.

Producer-handler should be defined as a dairy farmer who operates a distributing plant but received no milk from other dairy farmers or nonpool plants. Reports to the market administrator at such time and in such manner as may be requested should provide ample means through examination of accounts, records and facilities to determine the status of producer-handlers. A producer-handler under these provisions enjoys the full advantage of his fluid milk sales. It appears unnecessary to require a producer-handler to pay any particular price for milk produced on his own farm provided that any sales on the part of pool plants to such a handler are at Class I and any receipts from a producer-handler at a pool plant are considered other source milk, as hereinafter defined. Such provisions permit the producer-handler to participate in the trade of the marketing area to the full extent of his ability to obtain Class I sales for his own production without sharing in the balance of Class I sales of the market with other producers.

Producer should be defined as a person, other than a producer-handler, who produces milk in conformity with the sanitation requirements issued by the duly constituted health authority having jurisdiction in the marketing area, for milk to be consumed as a fluid milk product and whose milk is received at a pool plant. Producer milk diverted from a pool plant by a handler, including a cooperative association, to a nonpool plant for its account should be deemed to have been received at a pool plant. Such provisions will permit milk regularly associated with the market to be diverted to manufacturing plants during periods of seasonal flush production and over weekends and holidays when supply and demand relationships may require some reserve to be manufactured in plants not regulated by the order. This provision will facilitate interplant movements of milk for the purpose of short time adjustments of supply and demand without depriving dairy farmers producing the regular supply for the market of their status as producers.

Other source milk should be defined as all skim milk and butterfat contained in milk products received by a handler at his plant(s), except producer milk and fluid milk products received from pool plants. This definition would include milk products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed and converted to another product in the plant during the month. Supplemental supplies from nonpool plants are occasionally needed and the amounts needed vary from season to season and between handlers. The record testimony did not indicate that such supplies have significantly displaced producer milk for use in fluid outlets. Therefore, under these circumstances the allocation of producer milk to the highest class of utilization appears to be an effective means of minimizing any displacement of producer milk and also insures uniform accounting among all handlers for such supplies.

(b) *The classification and allocation of milk.* Milk should be classified in two classes reflecting the principal differences in the quality and the value of milk required for different uses. Class I should include all skim milk and butterfat disposed of for consumption as a fluid milk product. Fluid milk product means milk, skim milk, buttermilk, flavored milk and drinks, cream and mixtures of

milk, skim milk and cream. Plant loss of producer skim milk and butterfat in excess of 2 percent and skim milk and butterfat not accounted for as Class II should also be classified as Class I. Because skim milk and butterfat are not used in most products in the same proportions as received from producers, these components should be classified separately. Class prices, however, will apply per hundredweight of milk, and will be adjusted for the butterfat content of the milk actually used in each class through butterfat differentials.

Representatives of the health authorities having jurisdiction in the proposed marketing area testified that fluid milk products, as defined herein, sold for consumption in the area must be produced and handled in compliance with sanitation standards that are substantially uniform throughout the proposed marketing area. The proponent cooperative association requested that eggnog be a Class I product. The health regulations, however, require only the same health standards for eggnog as is required for ice cream mix. It is concluded that eggnog should be a Class II product. A handler on the other hand, proposed that sweet and sour cream be a Class II product. Skim milk and butterfat used to produce sweet and sour cream must meet the same health requirements as milk for fluid consumption, hence it is appropriate that cream be classified and priced in the same class as fluid milk.

The products which should be included in Class I are those distributed to consumers in fluid form and required by the health authorities having jurisdiction in the marketing area to be obtained from milk or milk products from approved inspected sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used as Class I somewhat higher than uninspected milk used for manufacturing purposes. It is appropirate that all of the products required to be from approved inspected sources be included in a single class so that all milk required to make such products may contribute uniformly to the cost of supplying the market needs for inspected milk.

Reserve milk not needed seasonally, or at other times such as week-ends, for Class I use must be disposed of for use in manufactured products. These products are not required to be made from inspected milk, must be sold in competition with products made from uninspected sources produced over a large area and generally are less perishable than fluid milk products. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

Class II should therefore include skim milk and butterfat used to produce any product other than a fluid milk product, including but not limited to such products as ice cream, ice cream mix, frozen cream, aerated cream, dried milk products, whole and nonfat, condensed or evaporated products, butter, cottage and hard cheese. Class II should also include plant loss of other source milk, all skim milk dumped or accounted for as disposed of for livestock feed, and inventories of fluid milk products on hand at the end of any month. Cream which is frozen and placed in storage should be Class II since such cream is intended primarily for use in ice cream or ice cream mix. Any frozen cream or other Class II products which may be used later in a fluid milk product would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

Handlers have inventories of milk and milk products at the beginning and end of each month which must enter into the accounting for current receipts and utilization. The record testimony indicates that an appropriate classification of the inventory of fluid milk products is as Class II. This manner of classifying inventory with correlated steps in the allocation procedure provides a means of charging each handler for his Class I sales each month at the current Class I price. Fluid milk products whether in bulk or packaged form should be inventoried and classified as Class II. Manufactured milk products are not included in inventory accounting because the skim milk and butterfat used for such products are accounted for in the month when such products are manufactured.

Uniformity of costs to handlers and simplicity of accounting are achieved if, so far as possible, Class I utilization each month is assigned to current receipts of producer milk. This can be accomplished by classification of closing inventory as Class II, and allocation of opening inventory to Class I only when current receipts of producer milk (except allowable Class II shrinkage) are less than Class I sales. In such case the handler should pay the difference between the Class II price for such milk in the preceding month and the current Class I price. The volume on which this charge is made should not exceed the volume (in excess of allowable Class II shrinkage) for which producers were paid at the Class II price in the preceding month.

Inventories of products designated as Class I on hand at a pool plant at the beginning of any month during which such a plant becomes qualified for the first time should likewise be subtracted from the Class II utilization of such plant. This will preserve the priority of assignment of current producer receipts to current Class I use for each month.

Unaccounted for milk in excess of a reasonable allowance for plant loss should be Class I so as to require full accounting by handlers for their receipts. Two percent is considered a reasonable maximum allowance for this purpose. No limit need be put on shrinkage of other source milk since such milk is deducted from the lowest use class under the allocation procedures. Since it is not feasible to segregate shrinkage of producer milk from that of other source milk in the same plant, total shrinkage is prorated on the basis of the volume of receipts. Allowance for loss on producer milk diverted to another pool plant should be at the pool plant where actually received. Each handler must be held responsible for full accounting of all his receipts of skim milk or butterfat in any form. The handler who first receives the milk from producers should be responsible for establishing the classification of and the payment for producer milk. Except for such limited quantities of shrinkage that may be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

Provision should be made for classification of fluid milk products transferred in bulk between pool plants and from plants to nonpool plants. Transfers between pool plants should be permitted in any class agreed upon by the handlers operating such plants so long as the prior claim of producer milk for Class I sales is maintained. Transfers between pool plants at an agreed upon class will not affect the total value of producer milk under a market-wide pool so long as this prior claim is maintained.

Transfers to other nonpool plants may be at Class II if the nonpool plant does not engage in the fluid milk business, or has receipts from inspected farmers equal to any Class I sales. If Class I sales exceed such receipts, the milk transferred should be Class I to the extent of the excess. In any event, in order to substantiate a Class II classification the nonpool plant must have and make available records adequate to verify any Class II utilization claimed.

There was no evidence indicating that the Battle Creek-Kalamazoo market carries milk supplies for other markets and therefore producers have no claims of priority to Class I sales in other markets resulting from transfers from pool plants to nonpool plants in such markets. The highest-valued uses should be assigned first to producers regularly supplying the other market. The provisions herein outlined are provided purposely to assure such assignment.

When handlers receive butterfat and skim milk from sources other than from producers, it is necessary to provide a method for allocating such receipts to the classes of utilization in such a manner as to determine the classification of producer milk. Inasmuch as producer milk is the regular available supply for fluid consumption in the marketing area, producer milk should be assigned the Class I utilization in preference to other source milk. This is necessary to insure the effectiveness of the classified pricing program of the proposed order. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in detail in the proposed market agreement and order.

In general this procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

(1) Class II shrinkage of producer milk;

(2) Other source milk;
(3) Beginning inventory;
(4) Receipts from other handlers (according to classication);
(5) Add shrinkage deducted in (1); and
(6) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month.

(c) *Class prices.* The price of milk for fluid use in the Battle Creek-Kalamazoo marketing area should be closely related to the prices of milk used in the production of manufactured dairy products. The area from which the Battle Creek-Kalamazoo market draws its milk supplies produces substantial quantities of milk for manufacturing purposes. The attractiveness of the fluid market to shippers supplying nearby manufacturing plants determines to a considerable extent the adequacy of the supply for fluid purposes. Experience in this market has shown that when the returns from the fluid milk market drop too near the level of returns for manufacturing milk the market becomes short of milk and that returns for fluid milk too far above manufacturing milk levels bring excessive supplies to the fluid market. Class I prices in the nearby Federal order markets of Detroit, Cleveland, Chicago, South Bend, Fort Wayne, Toledo, Muskegon and Upstate Michigan, with which Battle Creek-Kalamazoo competes in varying degrees for supplies and sales, are all based on manufacturing values. Use of a basic formula price to which a Class I differential is added will reflect manufacturing milk values.

(1) *Basic formula price.* The basic formula price used to determine the Class I price should be the highest of the average price paid by midwestern condenseries, a formula price based on market values of butter and nonfat dry milk, or the average paying price of nearby Michigan manufacturing plants. The first two of these prices measure the value of milk used in each of three major manufactured dairy products marketed nationally. Like factors are included in the pricing formulas effective in the surrounding Federal order markets. The prices paid at the Michigan plants will reflect local values when these exceed the national averages.

It was proposed that the Michigan plants be those used to determine the Class II price. In view of the desirability of maintaining alignment of the Class I price with that of the Detroit order the Michigan plant price used for basic formula purposes should be that presently used in the Detroit order.

(2) *Class I price.* The class I price differential to be added to the basic formula price should be at a level which will reflect the additional costs of providing an adequate but not excessive year-round supply of milk meeting the inspection requirements of the area. For the initial 18 months of operation of the order this differential should be established at an annual level of $1.26, varied seasonally to be $1.06 for the months of February through July and $1.46 for other months.

Producer associations proposed that the Class I price differentials vary by months from $1.20 to $1.65; under this proposal seven separate differentials, applicable for one or two months each, would be used. The annual average of the proposed differentials approximates $1.41. This pattern of differentials was used by the Kalamazoo cooperative association for several years prior to 1956 to determine the prices to be charged dealers supplied by the association. The prices negotiated between the other proponent cooperatives and Battle Creek handlers have had less seasonal variation and have generally averaged approximately 15 cents less than the prices negotiated at Kalamazoo. At Battle Creek, however, more products have been priced as Class I milk and the Class I price has applied more uniformly to sales of fluid milk. Consequently average returns to members of the Battle Creek association have approximated those of members of the Kalamazoo cooperative. Effective April 1956 a Kalamazoo Class I price of $5.04 was negotiated and such price remained in effect at the time of the hearing. At Battle Creek a $4.90 price was effective from mid-April through September 1956. For October and November, 1956, a $5.25 Class I price was in effect at Battle Creek. Negotiation of these prices paralleled closely the course of events in the Detroit market, where a $5.00 Class I price was negotiated for April through August 1956 and $5.35 price was negotiated effective September 1, 1956. The $5.04 price was almost $2.00 more than the basic formula price in midsummer and $1.73 more than the November basic formula. The Battle Creek $4.90 price ranged from $1.80 to $1.85 more than the basic formula and the $5.25 price was approximately $1.94 more than the basic formula price at the time of the hearing.

Proponents of the order recognized that the 1956 negotiated prices were of a temporary nature and were not aligned with the Detroit order price but with negotiated prices in effect in the Detroit market. They defended the somewhat lower level of price represented by the annual average $1.41 Class I price differential as representing the actual level of negotiated prices in effect for a substantial part of the marketing area for several years during which Detroit minimum order prices were effective.

In view of the volumes of milk priced under other Federal orders which are produced in or near the Battle Creek-Kalamazoo milkshed and the extent to which there is competition with these markets for sales as well as procurement, proper alignment of prices with the other order prices prevailing at the nearest plants subject to these orders is particularly important. The nearest Detroit plants are at Homer, in Calhoun County, Otsego in Allegan County both of which are located in the marketing area, and at Litchfield, just outside the marketing area in Hillsdale County. The Homer and Otsego plants are strictly supply plants for Detroit which compete only in procurement of milk. The Litchfield plant, however, also sells packaged milk in the marketing area in the vicinity of Battle Creek. The Detroit Class I differential is on the annual average, $1.43. A location adjustment of 17 cents applies at Homer and Litchfield, with a 20 cent adjustment at Otsego. Thus Detroit Class I price differentials average $1.26 at Homer and Litchfield and $1.23 at Otsego. The Cleveland Class I price differential applicable at Coldwater, 35 miles from Battle Creek averages $1.225. The Chicago Class I differential averages $0.90, from which location adjustment of 8 and 14 cents respectively are deducted at plants located at Constantine and Hopkins, Michigan. The South Bend, Indiana, market Class I differential is $1.10. The Muskegon order Class I differential is $1.17. An Upstate Michigan plant approximately midway between Battle Creek-Kalamazoo and the Upstate Michigan marketing area pays a Class I differential of $1.16. Under a recent amendment to the Toledo, Ohio, order effective April 1, 1957, of which official notice is hereby taken, the Toledo Class I differential at a supply plant at Angola, Indiana, now averages $1.22.

Prices of the Detroit market have a greater influence on marketing conditions in Battle Creek-Kalamazoo than do those of the other markets. Not only is the volume of nearby milk priced under the Detroit order greater than that priced under any other order, but there is more direct sales competition in the marketing area. In addition Detroit prices exert considerable influence on nearby unregulated markets, especially Lansing and Grand Rapids, with which Battle Creek-Kalamazoo handlers compete for milk supplies and sales.

Under the classification system herein provided, it is to be expected that more milk will be priced at Class I than is now the case, particularly in Kalamazoo. Thus producer prices can be maintained with a somewhat lower Class I price. In view of the influence of the Detroit market it does not appear that the Class I differential, at least for the initial period of the order, should exceed that for Detroit at the Litchfield plant from which milk is distributed on routes in the marketing area. It is therefore concluded that the annual level of the differential should be $1.26 for the first 18 months of operation of the order. Within this period the pricing provision should be reviewed in the light of experience under order operations.

The $1.26 should be varied seasonally to conform to the Detroit pattern of differentials. This currently is 20 cents below the annual average level during the months of February through July, and 20 cents above in other months. Therefore the Battle Creek-Kalamazoo differential should be $1.06 for February through July and $1.46 for other months. Should the Detroit seasonal pattern be changed, prompt consideration should be given to revision of the seasonal pattern in this market.

The Detroit and other order prices are adjusted on the basis of supply-demand relationships. Supply-sales data in the hearing record, while covering the period

beginning with 1940, do not include all receipts and sales nor is classification based on the system herein provided. Accordingly such data do not provide an adequate basis for providing a similar provision for Battle Creek-Kalamazoo at this time. While consideration could be given to providing precise price alignment by use of the amount of adjustment each month under the Detroit order, such precise alignment does not appear necessary for the initial 18 month period in the light of the experience shown in the record.

(3) *Class II price.* The Class II price should reflect the value of milk for general manufacturing uses in the Battle Creek-Kalamazoo milkshed. The average of the prices paid at three Michigan dairy manufacturing plants provides an appropriate indication of the value of milk for such uses in the area. The three plants selected are in the general area of the Battle Creek-Kalamazoo milkshed, and are not operated or controlled by persons who will be handlers under the order. Two of these plants are included in the list of 12 midwest plants used in determining the basic formula price for the proposed order and for numerous other Federal orders.

(4) *Handler butterfat differential.* Butterfat and skim milk will be accounted for separately for classification purposes since they are not used in most products in the same proportions as received from producers. The basic test for which class prices are determined is 3.5 percent butterfat content, the usual fat test at which prices are quoted in the area, and on which the market has operated for many years. It will then be necessary to adjust Class I and Class II prices of milk to handlers in accordance with the average test of milk used in each class. Butterfat differentials which reflect differences in value due to differences in butterfat content are used for this purpose.

Producers proposed that a single butterfat differential apply to both Class I and Class II milk. They proposed that this differential be 0.113 times the Chicago price of 92 score butter. A differential of this amount applies to both Class I and Class II milk under the Detroit order. Fluid cream, however, need not be from inspected sources for the Detroit market and is priced as Class II milk. In Battle Creek-Kalamazoo fluid cream must be from inspected milk and is therefore priced as Class I milk. A differential of 0.113 times the Chicago butter price represents a butterfat value no higher than the value of uninspected cream used for butter manufacture. Butterfat in cream from inspected sources sold as fluid cream or cream mixtures has a higher value, which will be approximately reflected by a butterfat differential 0.125 times the Chicago butter price. Such a differential should be used to adjust the hundredweight price of Class I milk for each one-tenth percent variation for 3.5 percent butterfat content. The Class II butterfat differential should be the 0.113 times Chicago butter price proposed. That differential reflects an appropriate value of butterfat for Class II uses.

(5) *Location differentials.* Location adjustments should apply to all Class I milk distributed by handlers whose plants are located more than 60 miles from the nearer of the City Halls at Battle Creek or at Kalamazoo, Michigan. The rate of adjustment should be 10 cents per hundredweight for plants located more than 60 but not more than 80 miles distant, plus 1 cent per 20 miles for distances in excess of 80 miles. Distances would be measured by the shortest highway distance as determined by the market administrator.

At the time of the hearing the only milk distributed from a plant more than 60 miles distant was from a plant regulated under the Toledo, Ohio, order which is not subject to pricing under this order. However, if a distant plant should become subject to the order by selling milk in the area or supplying plants that sell milk in the area, it should have location credit. This credit should approximate the transportation costs involved in economic movement of milk to the area, since the order is designed to place handlers at an equal cost basis at the marketing area. The adjustment rates provided parallel fairly closely those in nearby markets and should meet the current needs of the market.

Since milk moved between pool plants may be classified by agreement between the handlers involved location credit on such milk should be limited to that required for Class I use by the transferee plant. The amount by which 105 percent of Class I use exceeds receipts of producer milk of such plant is an appropriate indication of such need. In addition, where there are receipts from more than one plant, location adjustment should be first assigned to the nearest plants so that producers are not charged for unnecessary movements of milk.

Location adjustment to producers should be at the same rates as to handlers, but should apply to all base milk (or milk paid for at uniform prices) delivered by producers to any plant at which location adjustments apply.

(d) *Payments to producers*—(1) *Type of pool.* The market-wide type of pool should be included as a means of distributing to producers the returns from the sale of their milk.

The proponent cooperatives proposed that distribution of returns from the sale of producer milk be on a market-wide basis. This method has been used satisfactorily by segments within the proposed marketing area for a long period of time. A proposal to distribute producer returns on an individual handler pool basis was not supported at the hearing.

Marketing conditions require payment of a uniform price to all producers representing the value of all market utilization to compensate all producers fairly for their contribution to the market supply. Some milk distributors buy as closely as possible to their Class I needs and carry little or no surplus in the high production months. The cooperative supply their cooperating handlers with as much milk as needed and handle the surplus production of their members by diversion to manufacturing outlets located both in and outside of the proposed marketing area. Through the present pooling arrangements operated by the cooperatives producers supplying these plants all member producers contribute equally to making available a year-round supply of milk for the market but do not share in all the Class I sales of the market. A majority of plants do not have manufacturing facilities and generally purchase supplies from dairy farmers close to their needs. Under an individual handler pool it could not be expected that reserve supplies for the market would be uniformly distributed among handlers. The burden of carrying the necessary reserve supplies of milk would continue to be shouldered by only a part of the producers who share in the year-round Class I sales in the area.

A market-wide pool will facilitate the movement of milk supplies by the cooperative associations between handlers to meet their individual needs or to those nonpool processing plants that can make the most efficient use of such milk. Such a pool will aid the market in retaining qualified and experienced producers on a year-round basis which will tend to make available enough milk to fill the Class I requirements during the normally short production season. A market-wide pool will permit any handler to bid on such business as that offered by military installations and other public institutions and to obtain the supplies for such sales without upsetting the market whenever the business might shift from one handler to another. These factors, taken in conjunction with the variations in amount of reserve supplies among plants, all support the adoption of a market-wide pool.

(2) *Producer payment plan.* A base and excess plan of distributing returns for milk among producers should be adopted for this market.

The majority of the producers are now receiving payment for milk on a base-excess plan. Each of the two cooperative associations has used this system of distributing payments among its members for many years. Data presented by the proponents cover the period from 1940 to the time of the hearing. This evidence, although it does not represent the total figures for the market, indicates that receipts vary widely relative to Class I sales between the summer and winter months. The two associations have operated separate base and excess plans with substantially the same rules. Due to lack of complete market information in regard to receipts from all producers and utilization data from all handlers, the effect of these plans on the relationship of supply to total inspected needs of the market cannot be accurately and specifically determined. It is evident, however, that these base-excess plans as operated in the past have encouraged more even production.

Fundamentally the base-excess plan proposed by the cooperative associations and included herein is the same as that now being used. Each producer will receive the manufacturing milk price for milk delivered each month in excess of a daily average amount, known as the producer's base. The base period is August

through December. The producer's base for the 12 months beginning with the following February is determined by the daily average shipments during the preceding base period. The monthly base price is determined by dividing the total market base deliveries into the remaining returns for all producer milk after subtracting the value of excess milk and the value of milk from producers with no base. The base of each producer delivering milk 122 days or more in the base period is the amount determined by dividing the total pounds of milk received from such producer at all pool plants during the base period by the number of days for which milk was delivered. Producers with a previously established base may deliver less than the established base by as much as 10 percent without reducing such base. This limit in the reduction of established bases is a result of long experience in this and nearby markets which has shown such a limitation alleviates many cases of inequity and dissatisfaction resulting from reduced bases due to accident, disease, weather and other like conditions more or less beyond the control of the producer. Producers delivering milk less than 122 days during the August 1–December 31 base forming period may, by written request, have a base computed by dividing the total pounds of milk delivered to pool plants during such period by 122.

Provision is made for payments to producers without established bases and those who elect to relinquish their bases. The proponent cooperative associations proposed that a new producer (or one electing to relinquish a base) should establish a base by his deliveries in the first three full calendar months of his deliveries. A percentage of such deliveries seasonally varied from 40 percent for April, May and June to 70 percent August through November then would have become the producer's base for payment until a regularly established base was effective.

Provisions for new producers to enter the market should be consistent with the primary purpose of the base plan to discourage seasonal fluctuation in the flow of milk to the market. Since new producers have no prior fall deliveries from which the seasonality of their deliveries may be gauged it is necessary that their payments be determined somewhat arbitrarily as contrasted with producers with established bases who are paid on the basis of their individual performance. If the provisions assume that new producers have average seasonality of deliveries, their returns will be more favorable than those for old producers with wider than average seasonal variation in production. Such producers may then elect to relinquish their bases in order to receive payment under the new producer provisions, and the effectiveness of the base plan will be diminished. It is therefore desirable that the provisions for new producers be such as to encourage them to enter the market when their supplies will not increase seasonal variation and likewise will be such as not to invite substantial number of old producers to relinquish their bases. This can be accomplished by making payment to new producers (or those that relinquish a base) at an adjusted uniform price. The uniform price is adjusted by subtracting a stated percentage of the difference between the market average uniform price and the excess milk price. Stating the adjustment in this manner makes it equally applicable at all price levels. The adjustment percentage varies from 5 percent during the base forming period to 50 percent during the flush production months. This provision will be simpler than the plan proposed by the cooperative associations, yet accomplish the same general objectives.

Certain rules regulating the transfer of established bases were proposed and are adopted herein with the clarifying modifications made at the time of the hearing. These rules permit the transfer of a base to a member(s) of a producers' immediate family in the case of death, retirement or entry into military service. When a jointly held base is terminated division is limited to the joint holders. A base is forfeited in case a producer fails to deliver milk to a pool plant for 45 consecutive days except that a producer may maintain a base for 12 months in case complete loss of the dairy barn results from fire or windstorm. Transfers within these rules should be made only on written request filed with the market administrator. The above rules permit reasonable transfer of bases to alleviate hardship cases and correspond rather closely to present practices in the market.

Provision is also made for computing bases on deliveries during the preceding base forming period whenever any plant first achieves pool plant status. Such provision will permit the producers supplying such a plant to enter the market without any pooling handicap.

All milk delivered by producers from the effective date of the order, as proposed, until bases are established should be at the market average uniform price. Such a provision will assist in the orderly administration of the proposed order and provide an opportunity to some dairy farmers, not accustomed to a base-excess plan, to make any necessary adjustments. Cooperative associations will have the opportunity to continue paying their members in such manner as they desire.

Handlers should make payments to each producer for his milk at the required prices. If a producer has given a cooperative association written authorization by contract or in any other form, to collect payments for him, and the association makes a written request for the payments due such producer, payment should be made by the handler to the cooperative. A provision authorizing handlers to make payment directly to such qualified cooperative for milk received from producer-members is necessary to enable the association to carry out its essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of member milk. It is provided that handlers should make payments to producers, or to cooperative associations, at not less than applicable price(s) on or before the 15th day after the end of each month. In making payments for producer milk to a cooperative association the handler will pay an amount equal to the sum of the individual payments otherwise payable to member producers, and should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amounts of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary in order that the cooperative association can make proper distribution of the money to the producer-members for whom it makes collections.

(3) *Producer butterfat differential.* The butterfat differential used in making payments to producers should be calculated at the average of the returns actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class differentials provided in the order. The producer butterfat differential in no way affects the handlers' costs of milk but merely prorates returns among producers according to the varying butterfat tests of their milk.

(4) *Producer-settlement fund.* Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund; and all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal except for minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be adjusted each month.

If at any time the balance in the producer-settlement fund is insufficient to

cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to producer.

(c) *Other administrative provisions.* The remaining provisions are of a general administrative nature, are incidental to the other provisions of the proposed order, and are necessary for proper and efficient administration. They provide for the selection of a market administrator, define his powers and duties, provide for an administrative assessment, prescribe the information to be reported by handlers and set forth the rules to be followed in making the computations required. They also prescribe the length of time that records must be retained and provide a plan for the liquidation in the event of suspension or termination. They are similar to like provisions of other milk orders, and except as set forth below require no comment.

As his share of the expenses of administering this proposed order each handler should pay not in excess of 4 cents per hundredweight with respect to all producer milk received, all other source milk received at a pool plant which was classified as Class I milk, and as discussed elsewhere with respect to a nonpool plant. The market administrator must verify receipts and utilization of all such milk; therefore all such milk should be subject to the expenses of administration. Experience in other markets indicates that 4 cents per hundredweight with respect to all such milk should yield sufficient money to cover expenses of administration. If payment of expenses of administration at the rate of 4 cents per hundredweight yields more money than is needed, provision is made for the Secretary to prescribe a lesser rate of payment from time to time.

Provision should be made for the dissemination of market information to producers, for the verification of weights and for the sampling and testing of milk received from producers for whom such services are not being rendered by a qualified cooperative association. The order should provide that 5 cents per hundredweight, or such lesser amount as the Secretary may determine, be deducted from payments to such producers for use of the market administrator in financing such services. For producers for whom a cooperative association is rendering such services, the handler should pay to the cooperative association such deductions as the producer has authorized the cooperative to collect. Such payments to be in lieu of those to the market administrator.

Reports are required from handlers on receipts and utilization so that the market administrator may make the computations necessary to the market-wide pooling operation and the uniform price to producers. Handlers are also required to submit payroll reports which would show the details of milk receipts from each producer, the value of the milk received from the producer, deductions therefrom, and net amount paid to the producer.

There are limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949, (14 F. R. 444) covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of the decision.

Dates must be prescribed for announcing prices, filing reports and making payments. The following time schedule should allow all interested persons adequate time to perfom each function. (These time limits apply to the indicated day of the month following the month for which computations are being made.)

Day of the month and function: 5th working day—Announcement of class prices by market administrator.

5th working day—Submission of monthly report of receipts and utilization by handlers.

11th—Announcement of uniform prices by market administrator.

12th—Notification by market administrator to handlers of the value of their producer milk and amounts due to or payable from producer-settlement fund.

13th—Payment by handlers of amounts due to producer-settlement fund and for expenses of administration.

15th—Payments by handlers to producers and cooperative association and by market administrator out of producer-settlement fund.

It was proposed that a handler selling Class I milk in another Federally regulated market be charged the higher of the Battle Creek-Kalamazoo price or the Class I price in the other Federally regulated market for the Class I milk sold in the other area provided such a provision was effective in the other Federal order. None of the six nearby Federal milk orders have such a provision. Further, the alignment of prices with the two Federal order markets, from which handlers are distributing milk in the Battle Creek-Kalamazoo marketing area, is such that this provision is unnecessary. It is concluded a handler who operates a plant at which minimum prices to dairy farmers are established under another Federal order issued pursuant to the act and also sells Class I milk in the Battle Creek-Kalamazoo marketing area should be exempt from the provisions of this regulation, except for reporting the volume of Class I sales in the marketing area.

It is impracticable to regulate a handler under two separate orders with respect to the same milk. The determination under which order a handler should be regulated should be based on where the greater volume of Class I milk is sold.

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

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

(c) The proposed order 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;

(d) All milk and milk products handled by handlers, as defined in the proposed order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its product; and

(e) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler regulated by the proposed order as his pro rata share of such expense, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to, (a) all other receipts of producer milk including such handler's own production, (b) all other source milk at a pool plant which is classified as Class I milk, and (c) the applicable amount specified in § 937.62 (a) (2) or (b) (2).

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. These briefs and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions set forth in the briefs are inconsistent with the findings and conclusions set forth herein, the request to make such findings or to reach such conclusions are denied.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order.

DEFINITIONS

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

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

§ 937.3 *Department of Agriculture.* Department of Agriculture means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified herein.

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

§ 937.5 *Cooperative association.* Cooperative association means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(a) Is qualified under the standards set forth in the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act;

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

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

§ 937.6 *Battle Creek-Kalamazoo, Michigan, marketing area.* Battle Creek-Kalamazoo, Michigan, marketing area hereinafter referred to as the marketing area, means all territory, including incorporated municipalities, within Calhoun and Kalamazoo Counties, and Gun Plain and Otsego Townships in Allegan County, all in the State of Michigan.

§ 937.7 *Route.* Route means a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product, other than a delivery in bulk form to any milk processing plant.

§ 937.8 *Distributing plant.* Distributing plant means any plant at which fluid milk products conforming to the sanitation requirements of any duly constituted health authority having jurisdiction in the marketing area are processed and packaged and from which fluid milk products are disposed of on route(s) in the marketing area. Distributing plant shall not include a physically segregated and separately operated portion of the building and facilities in which no fluid milk products are processed and packaged, and from which no fluid milk products are moved to any plant from which routes are operated.

§ 937.9 *Supply plant.* Supply plant means a milk plant at which milk produced in conformity with the sanitation requirements for milk to be consumed as a fluid milk product of any duly consituted health authority having jurisdiction in the marketing area is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 937.10 *Pool plant.* Pool plant means:

(a) A distributing plant, other than that of a producer-handler or one described in §§ 937.61 or 937.63 (a) from which during the month:

(1) Disposition in the marketing area of fluid milk products on routes is 25 percent or more of receipts from dairy farmers and supply plants; and

(2) Total disposition of fluid milk products on routes is 50 percent or more of receipts of fluid milk products from dairy farmers and supply plants; or

(b) A supply plant from which during the month 50 percent or more of receipts from dairy farmers is moved to a plant described in paragraph (a) of this section. Any supply plant that was a pool plant during each of the months of August through January immediately preceding shall continue to be a pool plant for each of the following months of February through July unless written request to the contrary is filed with the market administrator on or before the first day of such month.

§ 937.11 *Producer.* Producer means a person, other than a producer-handler, who produces milk in conformity with the sanitation requirements for milk to be consumed as a fluid milk product of a duly constituted health authority having jurisdiction in the marketing area, which milk is received directly from the farm at a pool plant or is diverted from such plant to a nonpool plant for the account of the handler operating it or of a cooperative association. Milk so diverted shall be deemed to have been received at a pool plant by the handler or cooperative association that caused it to be diverted. Producer shall not include any person with respect to milk which is received at a plant subject to the pricing provisions of another Federal marketing order, and exempted hereunder pursuant to § 937.63.

§ 937.12 *Handler.* Handler means:

(a) The operator of a pool plant(s) in his capacity as such;

(b) The operator of any nonpool distributing plant; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant.

§ 937.13 *Producer-handler.* Producer-handler means a dairy farmer who operates a distributing plant at which no milk or fluid milk products are received during the month except his own production or from pool plants.

§ 937.14 *Producer-milk.* Producer-milk means milk received at a pool plant directly from producers, or diverted to a nonpool plant pursuant to § 937.11.

§ 937.15 *Fluid milk product.* Fluid milk product means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix, aerated cream and cream frozen and stored).

§ 937.16 *Other source milk.* Other source milk means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 937.17 *Chicago butter price.* Chicago butter price means the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 937.18 *Base milk.* Base milk means milk delivered by a producer each month which is not in excess of the base determined pursuant to § 937.80 multiplied by the number of days production for which milk is delivered during the month.

§ 937.19 *Excess milk.* Excess milk means milk delivered by a producer each month in excess of such producer's base milk.

MARKET ADMINISTRATOR

§ 937.20 *Designation.* The agency for the administration of this part 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.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, 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 the funds provided by § 937.94:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 937.95, 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 in this part, and upon request by the Secretary, surrender the same to such other persons as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, unless other-

wise 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 handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 937.30 through 937.33 or payments pursuant to §§ 937.90 through 937.96;

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

(h) Verify all reports and payments of each handler by examination of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(i) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information;

(j) Calculate a base for each producer pursuant to § 937.80 and advise the producer and the handler receiving the milk of such base;

(k) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th working day of each month, the minimum class prices for the preceding month computed pursuant to §§ 937.51 and 937.52, and the handler and producer butterfat differentials computed pursuant to §§ 937.53 and 937.75; and

(2) On or before the 11th day of each month the applicable uniform price(s), the price for base milk and the price for excess milk for the preceding month, computed pursuant to §§ 937.72, 937.73, and 937.74.

REPORTS, RECORDS AND FACILITIES

§ 937.30 *Reports of receipts and utilization.* On or before the 5th working day of each month each handler who operates a pool plant(s), each handler (other than a producer-handler or the operator of a plant exempt pursuant to § 937.61 or 937.63) who operates a nonpool distributing plant and any cooperative association with respect to milk for which it is a handler pursuant to § 937.12 (c) shall report for the preceding month 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:

(1) Producer milk, showing separately the aggregate quantities of base milk, excess milk, and milk to be paid for at the applicable uniform price, in lieu thereof, the operator of a nonpool distributing plant shall report aggregate receipts from dairy farmers qualified to become producers if such plant were a pool plant;

(2) Fluid milk products received from other pool plants;

(3) Other source milk; and

(4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements with respect to:

(1) Disposition of fluid milk products on routes within the marketing area from plants described in §§ 937.62 and 937.63, and from other plants for which the market administrator requires such information as a basis for determination of status or obligations; and

(2) Inventories of fluid milk products on hand at the end of the month; and

(c) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 937.31 *Payroll reports.* (a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 937.12 (c) shall report his producer payroll for the preceding month which shall show for each producer:

(1) The pounds of base milk and of excess milk (or the total pounds paid for at the applicable uniform price);

(2) The average butterfat content thereof; and

(3) The date and net of amount of payment to such producer, or to a cooperative association for such producer's milk, with the prices, deductions and charges involved and the nature of each.

(b) Each handler (other than a producer-handler or one described in § 937.61 or 937.63) operating a nonpool distributing plant shall report his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer:

(1) The pounds of milk;

(2) The average butterfat content thereof; and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

§ 937.32 *Producer-handler reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 937.33 *Exempt handler reports.* Each handler exempt pursuant to § 937.61 shall report to the market administrator his disposition of fluid milk products on routes within the marketing area at such time and in such manner as the market administrator shall prescribe.

§ 937.34 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to:

(a) The receipts and utilization or disposition of all skim milk and butterfat received including all milk products received and disposed of in the same form;

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

(c) Inventories of all dairy products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations.

§ 937.35 *Retention of records.* All books and records required under this part 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 a handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. 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

§ 937.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat required to be reported pursuant to § 937.30 shall be classified (separately as skim milk and butterfat), pursuant to § 937.41 through § 937.45.

§ 937.41 *Classes of utilization.* Subject to the conditions set forth in § 937.42 through § 937.44 the classes of utilization shall be as follows:

(a) Class I utilization shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section; and

(2) Not accounted for as Class II utilization;

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

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

(2) In cream frozen and stored;

(3) In skim milk authorized by the market administrator to be dumped or accounted for as disposed of for livestock feed;

(4) In shrinkage of skim milk and butterfat allocated to milk received from producers, but not to exceed 2 percent of such receipts;

(5) In shrinkage of other source milk; and

(6) In inventories of fluid milk products on hand at the end of the month.

§ 937.42 *Shrinkage.* (a) If a handler operates more than one pool plant, shrinkage shall be computed with respect to the combined receipts and disposition of all such plants.

(b) If a handler has receipts of other source milk, shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and in other source milk.

(c) Receipts of producer milk to which the limits of § 937.41 (b) (4) apply shall exclude diversions to other plants (pool or nonpool) but shall include producer milk received at the plant by diversion from another pool plant.

§ 937.43 *Responsibility of handlers.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 937.44 *Transfers.* Skim milk and butterfat transferred or diverted as fluid milk products in bulk form from a pool plant to:

(a) The pool plant of another handler shall be classified at the utilization indicated by the operators of both plants in their reports submitted pursuant to § 937.30, otherwise as Class I utilization, subject in either event to the following conditions:

(1) The receiving plant has utilization in such class of an equivalent amount of skim milk and butterfat, respectively; and

(2) Such skim milk and butterfat shall be classified so as to allocate to producer milk the greatest possible total Class I utilization in the two plants;

(b) To a nonpool plant operated by a producer-handler, or a handler exempt pursuant to § 937.61, shall be Class I utilization; and

(c) To a nonpool plant (except as specified in paragraph (b) of this section) shall be Class I utilization unless the following conditions apply:

(1) The transferring handler claims Class II utilization on his report for the month;

(2) The operator of the nonpool plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for verification of such Class II utilization; and

(3) Class I utilization in the nonpool plant does not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers who the market administrator determines are the regular source of supply of inspected milk for such plant. If Class I utilization exceeds such receipts, the skim milk and butterfat transferred shall be Class I to the extent of such excess.

§ 937.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler pursuant to § 937.30 and compute the total pounds of skim milk and butterfat respectively, in Class I and Class II utilization at all pool plants of such handler.

§ 937.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage pursuant to § 937.41 (b) (4);

(b) Subtract from the total pounds of butterfat remaining in each class, in series beginning with Class II, the pounds of butterfat in other source milk; except as specified in paragraph (d) of this section;

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with Class II, the pounds of butterfat in inventory of fluid milk products on hand at the beginning of the month;

(d) Subtract from the pounds of butterfat remaining in Class I the pounds of buttterfat in other source milk received in consumer packages from a nonpool distributing plant described in § 937.62;

(e) Subtract from the pounds of butterfat remaining in each class, the pounds of butterfat received from other handlers in such class pursuant to § 937.41 and § 937.44 (a);

(f) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section; and

(g) If the remaining pounds of butterfat in both classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series, beginning with Class II.

§ 937.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to producer milk in a manner similar to that prescribed for butterfat in § 937.46.

§ 937.48 *Computation of total producer milk in each class.* The amounts computed pursuant to §§ 937.46 and 937.47 will be combined into one total for each class and the weighted average butterfat content of producer milk in each class determined.

MINIMUM PRICES

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

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

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, 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 computed pursuant to subparagraphs (1) and (2) of this paragraph;

(1) From the Chicago butter price subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk, 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 immediately preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents and then multiply by 8.2.

(c) The average of the 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 for which prices have been reported to the market administrator:

Borden Co., Perrinton, Mich.
Carnation Co., Sheridan, Mich.
Carnation Co., Sparta, Mich.
Fairmont Foods Co., Bad Axe, Mich.
Lansing Dairy Co., Grand Ledge, Mich.
Kraft Cheese Co., Clare, Mich.
Kraft Cheese Co., Pinconning, Mich.
Nestle Co., Ubly, Mich.

§ 937.51 *Class I milk price.* (a) The minimum price per hundredweight to be paid by each handler f. o. b. a pool plant in the marketing area, for milk of 3.5 percent butterfat content received from producers or from cooperative associations during the month, which is classified as Class I utilization shall, for the 18-month period following the date this section is first effective, be the basic formula price plus $1.06 for the months of February through July, and plus $1.46 for all other months.

§ 937.52 *Class II milk price.* The minimum price per hundredweight to be paid by each handler f. o. b. a pool plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association, during the month, which is classified as Class II utilization shall be the average of the 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 for which prices have been reported to the market administrator:

Carnation Milk Co., Sparta, Mich.
Pet Milk Co., Wayland, Mich.
Michigan Cheese Co., Reed City, Mich.

§ 937.53 *Handler butterfat differentials.* If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent there shall be added to the price of milk for such class as computed pursuant to § 937.51 or 937.52, for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the Chicago butter price, multiplied by the applicable factor as follows:

(a) Class I milk—multiply by 0.125
(b) Class II milk—multiply by 0.113

§ 937.54 *Location adjustment to handlers.* For milk received from producers at a pool plant located more than 60

miles by shortest highway distance, as determined by the market administrator, from the City Hall in either Battle Creek or Kalamazoo, Michigan, whichever is nearer, and which is classified as Class I utilization, the prices computed pursuant to § 937.51 shall be reduced 10 cents if such distance is more than 60 but not more than 80 miles, and by an additional 1 cent for each 20 miles or fraction thereof that such distance exceeds 80 miles.

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

§ 937.55 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes 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

§ 937.60 *Producer-handler exemption.* A producer-handler shall be exempt from all provisions of this part except §§ 937.32, 937.34 and 937.35.

§ 937.61 *Exempt handler.* A handler who operates a nonpool distributing plant located outside the marketing area from which an average of less than 150 points (one point being defined as one-half pint of cream or one quart of any other fluid milk product) of Class I milk per day is disposed of during the month in the marketing area on route(s), shall be exempt from all provisions of this part except §§ 937.33 through 937.35.

§ 937.62 *Obligations of handler operating a nonpool distributing plant.* In lieu of payments required pursuant to §§ 937.90 through 937.94, each handler, other than a producer-handler or one exempt pursuant to §§ 937.61 or 937.63, who operates during the month a nonpool distributing plant, shall pay to the market administrator as follows:

(a) If such handler so elects at the time of reporting pursuant to § 937.30, or if the receipts of fluid milk products from dairy farmers and from other plants operated by such handler are less than 95 percent of Class I utilization at such plant, his obligations shall be as follows:

(1) On or before the 13th day after the end of the month, for the producer-settlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class II price; and

(2) On or before the 13th day after the end of the month, as his pro rata share of expense of administration, the rate specified in § 937.94 with respect to Class I milk disposed of on routes in the marketing area.

(b) Except as the handler's obligation may be computed pursuant to paragraph (a) of this section, his obligation shall be computed as follows:

(1) On or before the 25th day after the end of the month, for the producer-settlement fund, the amount specified in paragraph (a) (1) of this section, or any plus amount resulting from the following computation, whichever is less:

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 937.70 for milk received from dairy farmers at such plant for such month if such plant had been a pool plant; and

(ii) Deduct the gross payments made by the handler to dairy farmers for milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report required pursuant to § 937.31 (b), plus the value of any supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 937.94 had such plant been a pool plant.

(3) In any case in which receipts from dairy farmers at the nonpool distributing plant are less than 95 percent of Class I utilization, but combined receipts from dairy farmers and from other plants operated by the handler equal or exceed 95 percent of Class I utilization at such plant, there shall be combined for the purposes of the computations pursuant to subparagraphs (1) and (2) of this paragraph the receipts, utilization, and payments to dairy farmers at such nonpool distributing plant and at other plants operated by the handler from which fluid milk products were moved during the month to such nonpool distributing plant.

§ 937.63 *Plants subject to other Federal orders.* The handler operating a plant specified in paragraphs (a) or (b) of this section shall be exempt from all provisions of this order except §§ 937.30 (b) (1), 937.34 and 937.35.

(a) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless a greater volume of Class I milk is disposed of during the month on routes in the Battle Creek-Kalamazoo marketing area than in the marketing area defined in such other order;

(b) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualified as a pool plant during each of the preceding months of August through January.

DETERMINATION OF PRICES TO PRODUCERS

§ 937.70 *Computation of value of producer milk.* The value of producer milk received during the month by each handler at pool plants shall be computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 937.48, by the applicable respective class prices (adjusted pursuant to §§ 937.53 and 937.54);

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 937.46 (f) and the corresponding step of § 937.47 by the applicable class price;

(c) Add the amount obtained through multiplying by the difference between the Class II price for the preceding month and the Class I price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class I pursuant to § 937.46 (c) and the corresponding step of § 937.47; or

(2) The hundredweight of producer milk classified as Class II milk (except as shrinkage) for the preceding month.

§ 937.71 *Computation of the 3.5 percent value of all producer milk.* For each month, the market administrator shall compute the 3.5 percent value of all producer milk at the marketing area, as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 937.70;

(b) Add, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less than 3.5 percent, or subtract if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 937.75 multiplied by 10;

(c) Add the total of the values of the applicable producer location adjustments pursuant to § 937.76; and

(d) Add not less than one-half of the unobligated balance in the producer-equalization fund.

§ 937.72 *Uniform price(s).* For each month the uniform price(s) per hundredweight for milk containing 3.5 percent butterfat received from producers at pool plants (before location adjustments) shall be computed as follows:

(a) Divide the amount computed pursuant to § 937.71 by the hundredweight of milk received from all producers;

(b) Subtract not less than 6 cents nor more than 7 cents; the result is the "market average uniform price".

(c) For purposes of payments to producers described in § 937.80 (d) and (e) an "adjusted uniform price" shall be computed by subtracting from the "market average uniform price" the applicable percentage specified below of the difference between such "market average uni-

form price" and the excess milk price and rounding to the nearest cent:

	Percent
January, February, and March	30
April, May, and June	50
July	15
All other months	5

§ 937.73 *Excess milk price.* For each month the price for excess milk containing 3.5 percent butterfat shall be computed as follows:

(a) Multiply the hundredweight of excess milk not in excess of the total quantity of Class II milk represented by the values included in § 937.71 (a) by the price for 3.5 percent Class II utilization pursuant to § 937.52;

(b) Multiply the hundredweight of any excess milk not included in the computation described in paragraph (a) of this section by the price for 3.5 percent Class I utilization pursuant to § 937.51; and

(c) Combine into one total the values computed pursuant to paragraphs (a) and (b) of this section, divide by the hundredweight of excess milk and round to the nearest cent.

§ 937.74 *Base milk price.* For each month the price for base milk containing 3.5 percent butterfat received from producers at pool plants (before location adjustments) shall be computed as follows:

(a) Multiply the total pounds of excess milk by the excess milk price for the month;

(b) Multiply the total amount of milk to be paid for at the adjusted uniform price by the adjusted uniform price pursuant to § 937.72 (c);

(c) Subtract the total values arrived at in paragraphs (a) and (b) of this section from the total 3.5 percent value of all producer milk arrived at in § 937.71;

(d) Divide the resultant value by the total hundredweight of base milk; and

(e) Subtract not less than 6 cents nor more than 7 cents.

§ 937.75 *Producer butterfat differential.* In making payments pursuant to § 937.90, the applicable uniform price, base price and excess price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 935.53 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest tenth cent.

§ 937.76 *Location adjustment to producers.* In making payments to producers and cooperative associations, a handler may deduct, with respect to base milk and milk to be paid for at a uniform price received from the producers at a pool plant located more than 60 miles by shortest highway distance, as determined by the market administrator, from the City Hall in Battle Creek or Kalamazoo, Michigan, whichever is nearer, the amount per hundredweight applicable to the plant as set forth in § 937.54.

§ 937.77 *Notification.* On or before the 12th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such amounts and values;

(b) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(c) The totals of the minimum amounts to be paid by such handler pursuant to §§ 937.90, 937.92, 937.94 and 937.95.

BASE RULES

§ 937.80 *Determination of base.* (a) Subject to the exceptions provided in paragraphs (b) and (e) of this section a producer who delivered milk of at least 122 days production during the period August 1 through December 31, inclusive, shall have a base computed by the market administrator, to be applicable for the 12-month period beginning the following February 1, equal to the total pounds of milk received from such producer at all pool plants during such months divided by the number of days for which milk was delivered;

(b) A producer who had a base before August 1–December 31 period may by deliveries computed pursuant to paragraph (a) of this section is less than such base, shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries;

(c) A producer delivering milk of less than 122 days production during the August 1-December 31 period may by written request filed with the market administrator prior to January 15, have a base computed by dividing by 122 the total pounds of milk delivered to pool plants during such period;

(d) A producer who has no base shall be paid until February 1 following the August–December period within which he establishes a base pursuant to paragraph (a) of this section at the applicable adjusted uniform price determined pursuant to § 937.72 (c);

(e) A producer with a base, by notifying the market administrator that he relinquishes such base, may be paid pursuant to paragraph (d) of this section, beginning with the first day of the month following that in which such notification is received by the market administrator;

(f) When a plant first becomes a pool plant pursuant to § 937.10 bases for producers delivering to such plant may be established on deliveries of milk for the preceding August–December period certified by submision of delivery receipts or other evidence satisfactory to the market administrator; and

(g) From the effective date of this part until bases are established and effective pursuant to this section, all milk delivered by producers shall be paid for at the market average uniform price pursuant to § 937.72 (b).

§ 937.81 *Application of bases.* (a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period and upon death may be transferred to a member or members of the deceased producer's immediate family;

(b) Bases may be transferred under the following conditions upon written notice by the holder to the base to the market administrator on or before the last day of the month that such base is to be transferred:

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of the immediate family.

(2) Bases may be held jointly and if such joint holding is terminated the base may be divided among the joint holders as specified in writing to the market administrator.

(c) A producer who does not deliver milk to a handler for 45 consecutive days shall forfeit his base except that a producer who suffers the complete loss of his barn as a result of fire or windstorm may retain his base without loss for twelve months.

PAYMENT FOR MILK

§ 937.90 *Time and method of payment.* (a) Except as provided in paragraph (b) of this section, on or before the 15th day after the end of each month each handler who received milk from producers shall pay for milk received during such month to each producer: not less than the applicable uniform price as provided in § 937.80 (d), (e) or (g), or the base price for base milk and the excess price for excess milk, adjusted by the butterfat and location differentials pursuant to § 937.75 and § 937.76, less (1) applicable deductions for marketing services pursuant to § 937.95 (a), and (2) proper deductions authorized in writing by such producer.

If by such date such handler has not received full payment for such month pursuant to § 937.93 he shall not be deemed to be in violation of this section if he reduces uniformly to all producers and cooperative associations his payments per hundredweight by a total amount not in excess of the reduction in payments due from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this section next following that on which such balance of payment is received from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall (i) pay to the cooperative association on or before the 15th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing 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, and (ii) submit to the cooperative association on or be-

fore the 10th day of each month written information which shows for each such member-producer (a) the total pounds of base, excess and all milk received from him during the preceding month, (b) the average butterfat content of such milk, (c) the number of days for which milk was received, and (d) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following 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.

(2) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit 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.

§ 937.91 *Producer-equalization fund.* The market administrator shall establish and maintain a separate fund, known as the producer-equalization fund into which he shall deposit all payments received pursuant to §§ 937.62 and 937.92 (including any adjustments thereto pursuant to § 937.96) and out of which he shall make all payments pursuant to § 937.93 (including any adjustments thereto pursuant to § 937.96).

§ 937.92 *Payments to the producer-equalization fund.* (a) On or before the 13th day after the end of each month, each handler whose value of milk is required to be computed pursuant to § 937.70 shall pay to the market administrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to § 937.90.

(b) On or before the 25th day after the end of each month each handler who is required to make payment pursuant to § 937.62 shall pay such amount to the market administrator.

§ 937.93 *Payments out of the producer-equalization fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 937.70 is less than the total minimum amount required to be paid by him pursuant to § 937.90, less any unpaid obligations of such handler to the market administrator pursuant to § 937.92: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 937.94 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 13th day after the end of the month for such month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to (a) all receipts of producer milk including such handler's own production, (b) all other source milk at a pool plant which is classified as Class I milk, and (c) the applicable amount specified in § 937.62 (a) (2) or (b) (2).

§ 937.95 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 937.90 for milk received from each producer, at a plant not operated by a cooperative association of which such producer is a member, shall deduct five cents per hundredweight or such amount not exceeding five cents per hundredweight as the Secretary may prescribe, with respect to all such milk received during the month, and on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 937.90 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services.

ADJUSTMENT OF ACCOUNTS

§ 937.96 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made for any reason, which result in monies due:

(a) To the market administrator from such handler;

(b) To such handler from the market administrator; or

(c) To any producer or cooperative association from such handler, the market administrator shall notify such handler promptly of any such amount due; and payment thereof shall be made on or before the next date, following the 5th day after such notice, for making payment set forth in the provision under which such error occurred.

§ 937.97 *Overdue accounts.* Any unpaid obligations of a handler or of the market administrator pursuant to §§ 937.92 through 937.96 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 937.98 *Termination of obligation.* (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) or (c) of this section, terminate two years after the last day of the month during which the market administartor receives the handler's report of utilization of 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 a cooperative association, the name of such producers or associations, 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 representative all books or records required by this subpart to be made available, the market administrator, may within a 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 perod with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part 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 part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed unless such handler, within the applicable period of time, files pursuant to section 8 (c)

(15) (a) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

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

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

§ 937.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, 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.

§ 937.103 *Liquidation.* Upon the suspension or termination of any or all provisions of this part, 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 liquidating distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 7th day of August 1957.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 57-6559; Filed, Aug. 9, 1957; 8:48 a. m.]

Commodity Stabilization Service

[7 CFR Part 722]

1958 CROP OF UPLAND COTTON

NOTICE OF DETERMINATIONS TO BE MADE WITH RESPECT TO A NATIONAL MARKETING QUOTA; NATIONAL, STATE AND COUNTY ALLOTMENTS; FIXING OF A DATE FOR HOLDING A REFERENDUM; AND FORMULATION OF REGULATIONS PERTAINING TO ACREAGE ALLOTMENTS

Pursuant to the authority contained in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "act") (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.), the Secretary of Agriculture is preparing to determine as soon as practicable whether a national marketing quota is required to be proclaimed for the 1958 crop of upland cotton (hereinafter referred to as "cotton"). If such quota is required, the Secretary will also determine and proclaim the amount of the quota and the amount of the national allotment for the 1958 crop of cotton and will issue regulations pertaining to acreage allotments for cotton.

Section 342 of the act provides that whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. It further provides that the Secretary shall determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales adequate, together with (1) the estimated carry-over at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton. Under the provisions of section 342, the national marketing quota for any year may not be less than 10 million bales or one million bales less than the estimated domestic consumption plus exports of cotton for the marketing year ending in the calendar year in which such quota is proclaimed, whichever is smaller, subject to a proviso that the 1958 national marketing quota shall be not less than the number of bales required to provide a national allotment for 1958 equal to the national allotment for 1956, which was 17,391,304 acres.

Section 342 requires the proclamation of the national marketing quota to be made not later than October 15 of the calendar year in which the determination is made that the total supply of cotton exceeds the normal supply. In order that the Agricultural Stabilization and Conservation State and county committees may properly perform their functions in connection with establishing county and farm allotments for the 1958 crop of cotton, it will be necessary to issue any such proclamation and to determine the national, State and county allotments as soon as practicable.

As defined in section 301 of the act for purposes of the determinations provided for in section 342 of the act, "total supply" of cotton for any marketing year is the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins, and the estimated imports of cotton into the United States during such marketing year; "carry-over" of cotton for any marketing year is the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current; "normal supply" of cotton for any marketing year is the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of such consumption and exports as an allowance for carry-over; and "marketing year" for cotton is the period August 1–July 31.

Section 344 (a) of the act provides that whenever a national marketing quota is proclaimed under section 342, the Secretary shall determine and proclaim a national allotment for the crop of cotton to be produced in the next calendar year. The national allotment for cotton for 1958 is that acreage, based upon the national average yield per acre of cotton for the 5 years immediately preceding the calendar year in which the national marketing quota is proclaimed, which is required to make available from such crop an amount of cotton equal to the national marketing quota.

If a national allotment is proclaimed for the 1958 crop of cotton, such allotment will be apportioned among the States, as provided by section 344 (b) of the act, on the basis of the acreage planted to cotton during the 5 calendar years 1952, 1953, 1954, 1955, and 1956, with adjustments during such period as provided under the act and the Soil Bank provisions of the Agricultural Act of 1956 (70 Stat. 188; 7 U. S. C. 1801 et seq.). However, section 342 provides that if the allotment for any State for 1958 is less than its allotment for the preceding year by more than 1 percent, such State allotment shall be increased so that the reduction shall not exceed 1 percent per annum. The additional acreage which a State receives under this provision will be in addition to the national allotment and will not be taken into account in establishing future State allotments.

The regulations which the Secretary will issue pertaining to acreage allotments for the 1958 crop of upland cotton are expected to be substantially the same as the regulations pertaining to acreage allotments for the 1957 crop of upland cotton. (21 F. R. 7817, 8077, 9630; 22 F. R. 533, 2145, 3103, 3649, and 5526.) ("Farm", defined in § 718.2 of the Regulations pertaining to Determination of

Acreage and Performance (22 F. R. 3747).) The regulations will provide for approval by the Secretary and publication thereof in the FEDERAL REGISTER of State and county allotments, and State and county reserves.

It is proposed that the limitation on the amount of State reserve for trends, abnormal conditions, new farms, and inequities and hardships established under § 722.816 (a) (1) of the regulations pertaining to acreage allotments for the 1957 crop of upland cotton will not be applied with respect to the 1958 crop. It is also proposed that insofar as practicable farm reconstitutions be made before farm allotments are initially established for 1958 in cases where changes in the size of the farm as finally constituted for 1957 are known to the county committee.

Section 343 of the act provides that not later than December 15 following the issuance of the proclamation of the national marketing quota provided for in section 342 of the act, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If a quota is proclaimed for the 1958 crop of cotton, it is expected that the Secretary will fix the date of the referendum reasonably close to the final date of December 15, 1957, for holding it in order to allow maximum time for establishing 1958 farm allotments and issuing notices thereof to farmers. Section 362 of the act provides that notice of the farm allotment established for each farm shown by the records of the county committee to be entitled to such allotment, shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

Prior to making any of the foregoing determinations with respect to the national marketing quota, the national allotment, the apportionment of the national allotment to States and the State allotments to counties, fixing a date for holding a referendum, and the formulation of regulations pertaining to acreage allotments for the 1958 crop of upland cotton, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C., within 15 days following the publication of this notice in the FEDERAL REGISTER. The date of the postmark will be considered as the date of any submission.

Done at Washington, D. C., this 6th day of August 1957. Witness my hand and the Seal of the Deparment of Agriculture.

[SEAL] WALTER C. BERGER,
Administrator.

[F. R. Doc. 57-6576; Filed, Aug. 9, 1957; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12134; FCC 57-890]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

SOUTH BEND, IND., ET AL.

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, South Bend, Elkhart, and Plymouth, Indiana; Elgin and Waukegan, Illinois; Benton Harbor and Kalamazoo, Michigan; Docket No. 12134.

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

2. The Commission has before it for consideration two counterproposals submitted in Docket No. 12074,[1] which proposals request amendment of § 3.606 *Table of assignments*, Television Broadcast Stations:

(a) A proposal, filed July 5, 1957, by Truth Publishing Company, Inc., licensee of television Station WSJV, Elkhart, Indiana, to assign Channel 28+ to South Bend-Elkhart, as follows:

City	Channel No.	
	Delete	Add
South Bend, Ind.	*40+	*52
Elkhart, Ind.	52	
South Bend-Elkhart, Ind.		28+
Elgin, Ill.	28+	83
Benton Harbor, Mich.	42	40+

WSJV requests that it be directed to show cause why its authorization should not be modified to specify operation on Channel 28+ at South Bend-Elkhart in lieu of its present operation on Channel 52 at Elkhart.

(b) A proposal, filed July 9, 1957 by South Bend Tribune, licensee of television Station WSBT-TV, South Bend, Indiana, to assign Channel 22 to South Bend, as follows:

City	Channel No.	
	Delete	Add
South Bend, Ind.	34	22
Waukegan, Ill.	22+	79+
Kalamazoo, Mich.	36-	46
Plymouth, Ind.		34

WSBT-TV requests that it be directed to show cause why its authorization should not be modified to specify operation on Channel 22 in lieu of Channel 34 at South Bend.

3. In support of its proposal WSJV asserts that South Bend and Elkhart are approximately 15 miles apart in the same market; that WSJV provides a city-grade service to both South Bend and Elkhart, as do both of the South Bend stations (WSBT-TV and WNDU-TV); that its proposal is in full conformity with the rules; that the lower UHF channels are more effective and desirable for improving service; that its proposal will not disturb any operating station or outstanding permit and will not deprive any city of a television channel assignment; and that UHF receivers pick up lower UHF channels better than they do higher UHF channels.

4. WSBT-TV alleges that the South Bend-Elkhart area is a "UHF island"; that operation on lower UHF channels would result in better coverage than is now the case on higher UHF channels; that there are no authorizations or applications for Channel 22 in Waukegan and Channel 36 in Kalamazoo; and that the proposal conforms with our Rules.

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

6. The proposed amendments, if adopted, would affect the outstanding authorizations of petitioners. We do not believe, however, that we should direct any party so affected to show cause why its outstanding authorization should not be modified at this time. Such additional proceedings which may be necessary in light of outstanding authorizations will be instituted at a later date.

7. 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.

8. 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 September 6, 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.

9. 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: August 1, 1957.

Released: August 7, 1957.

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

[F. R. Doc. 57-6580; Filed, Aug. 9, 1957; 8:51 a. m.]

[1] We are concurrently issuing a Report and Order in Docket No. 12074, assigning Channel 16 to South Bend, Indiana. The action taken in the said Report and Order in no way conflicts with the two proposals which are the subject of the instant Notice.

[47 CFR Part 3]

[Docket No. 12135; FCC 57-893]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

AGUADILLA, PUERTO RICO ET AL.

In the matter of Amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, Aguadilla, Arecibo and Fajardo, Puerto Rico—Charlotte Amalie, V. I.; Docket No. 12135.

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

2. The Commission has before it for consideration a petition filed June 24, 1957 by Continental Broadcasting Corporation, San Juan, Puerto Rico, for rule making to amend the Table of Assignments contained in § 3.606, Television Broadcast Stations, to assign Channel 13 to Fajardo, Puerto Rico, by one of two alternative methods as follows:

Plan A

City	Present	Proposed
Charlotte Amalie, V. I.	10−, 12+	10−
Aguadilla, P. R.[1]	13+	
Aguadilla-Arecibo, P. R.		12+
Fajardo, P. R.		13+

Plan B

Charlotte Amalie, V. I.	10−, 12+	10−
Aguadilla, P. R.[1]	13+	12+
Fajardo, P. R.		13+

[1] In a Report and Order in Docket No. 11861, released today, we are assigning Channel 13 to Aguadilla-Arecibo, P. R. This reassignment should be taken into account in the comments filed in this proceeding.

3. In support of its request petitioner urges that Fajardo is located on the eastern coast of Puerto Rico and had a 1950 population of 15,336; that the municipality of Fajardo had a 1950 population of 22,116 and that it is anticipated that the U. S. Naval Base near Fajardo will have a population of approximately 10,000 persons. Petitioner contends that a television station on Channel 13 at Fajardo would provide service to the communities of Laguillo, population 9,967; Ceiba, population 9,199; Naguabo, population 21,019; Humacao, population 34,853; Yabucoa, population 28,810; and Vieques, population 9,228, and would serve Charlotte Amalie and Christiansted, Virgin Islands. It maintains that Fajardo and the surrounding area receive only marginal service from the San Juan television stations and no service whatsoever from stations located in cities on the south and west sides of the Island. Finally, it asserts that there has been no demand for use of any of the three channels allocated to the Virgin Islands and if it becomes economically feasible to operate a commercial television station there, the two remaining allocations can provide adequate service.

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 amendment proposed by petitioner 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 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 September 6, 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.

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: August 1, 1957.

Released: August 7, 1957.

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

[F. R. Doc. 57-6581; Filed, Aug. 9, 1957; 8:51 a. m.]

[47 CFR Part 16]

[Docket No. 12136; FCC 57-932]

LAND TRANSPORTATION RADIO SERVICES

LICENSING OF SPEED MEASURING DEVICES

In the matter of amendment of Part 16 of the Commission's rules to provide for the licensing of Speed Measuring Devices in the Land Transportation Radio Services; Docket No. 12136.

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

2. By Commission Order of April 25, 1956 in Docket No. 11550, which was published in the FEDERAL REGISTER of May 3, 1956 (21 F. R. 2947), frequencies in the band of frequencies 10500–10550 Mc were made available for use by Government and non-Government radiolocation stations, limited to the use of continuous wave (CW) emissions. This type of emission is primarily used by speed measuring devices which make use of the doppler effect to determine the relative speed of objects under observation.

3. In accordance with the provisions of Part 2 of the Commission's rules, frequencies in the band 2450–2500 Mc are available for use by land radiopositioning stations and mobile radiopositioning stations, including speed measuring devices, on the condition that harmful interference will not be caused to the fixed and mobile services. The frequency 2455 Mc is normally utilized by speed measuring devices operating in this frequency band, which also normally utilize continuous wave (CW) emissions for that purpose.

4. The Commission proposes to amend Part 16 of its rules to provide for the licensing of Land Radiopositioning Stations and Mobile Radiopositioning Stations for the operation of speed measuring devices utilizing continuous wave (CW) emissions, in the various Land Transportation Radio Services on a developmental basis, as appropriate. It is proposed that such operation be limited to the frequencies 2455 and 10525 Mc in the above mentioned bands, since the possibility of interference between such devices even when operating on the same frequency appears very remote.

5. The proposed amendments, which are set forth in detail below, are issued under authority of sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, and any person desiring to support the proposal, may file with the Commission on or before September 3, 1957, a written statement or brief setting forth his comments. Replies to such comments may be filed within ten 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. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

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

Adopted: August 1, 1957.

Released: August 6, 1957.

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

1. It is proposed to amend § 16.6 by the addition of the following new paragraphs:

(z) [Reserved].

(aa) *Land radiopositioning station.* A station in the radiolocation service, other than a radionavigation station, not intended for operation while in motion.

(bb) *Mobile radiopositioning station.* A station in the radiolocation service, other than a radionavigation station, intended to be used while in motion or during halts at unspecified points.

2. It is proposed to establish a new § 16.258 in Subpart F Motor Carrier Radio Service, to read as follows:

§ 16.258 *Speed measuring devices.* The frequencies 2455 Mc and 10525 Mc are available for assignment under the terms of a developmental grant to Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service for use by speed measuring devices only: *Provided*, That unmodulated continuous wave (CW) emission only shall be employed and that a frequency stability of at least 0.2 percent shall be main-

tained. The use of the frequency 2455 Mc is subject to the condition that harmful interference will not be caused to stations in the fixed and mobile services, and is further subject to no protection from interference which may be experienced from the operation of industrial, scientific and medical devices on the frequency 2450 Mc.

3. It is proposed to establish a new § 16.358 in Subpart H Railroad Radio Service, to read as follows:

§ 16.358 *Speed measuring devices.* The frequencies 2455 Mc and 10525 Mc are available for assignment under the terms of a developmental grant to Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service for use by speed measuring devices only: *Provided*, That unmodulated continuous wave (CW) emission only shall be employed and that a frequency stability of at least 0.2 percent shall be maintained. The use of the frequency 2455 Mc is subject to the conditions that harmful interference will not be caused to stations in the fixed and mobile services, and is further subject to no protection from interference which may be experienced from the operation of industrial, scientific and medical devices on the frequency 2450 Mc.

4. It is proposed to establish a new § 16.405 in Subpart I Taxicab Radio Service, to read as follows:

§ 16.405 *Speed measuring devices.* The frequencies 2455 Mc and 10525 Mc are available for assignment under the terms of a developmental grant to Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service for use by speed measuring devices only: *Provided*, That unmodulated continuous wave (CW) emission only shall be employed and that a frequency stability of at least 0.2 percent shall be maintained. The use of the frequency 2455 Mc is subject to the condition that harmful interference will not be caused to stations in the fixed and mobile services, and is further subject to no protection from interference which may be experienced from the operation of industrial, scientific and medical devices on the frequency 2450 Mc.

5. It is proposed to establish a new § 16.505 in Subpart K Automobile Emergency Radio Service, to read as follows:

§ 16.505 *Speed measuring devices.* The frequencies 2455 Mc and 10525 Mc are available for assignment under the terms of a developmental grant to Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service for use by speed measuring devices only: *Provided*, That unmodulated continuous wave (CW) emission only shall be employed and that a frequency stability of at least 0.2 percent shall be maintained. The use of the frequency 2455 Mc is subject to the condition that harmful interference will not be caused to stations in the fixed and mobile services, and is further subject to no protection from interference which may be experienced from the operation of industrial, scientific and medical devices on the frequency 2450 Mc.

[F. R. Doc. 57-6582; Filed, Aug. 9, 1957; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Internal Revenue Service

OPERATING FACILITIES BRANCH

ORGANIZATION AND FUNCTIONS

Paragraph 1118.73 of the material appearing at 21 F. R. 10432 is amended to read as follows:

1118.73 *Operating Facilities Branch.* The Operating Facilities Branch provides the facilities and administrative services necessary to the efficient operation of the district office. The Branch carries out the space policies of the District Director and conducts periodic surveys to assure effective space utilization. It procures, requisitions, issues, and assures effective utilization of equipment, property and office supplies; maintains records on all equipment and property located within the district; and provides communications and duplicating services. The Branch also furnishes data necessary for the preparation of that portion of the district office budget estimates and financial plans which is concerned with funds required for materials and facilities in the district. As required for district management control, it maintains blotter type records of fund commitments for materials and facilities (object classes 03 through 09 as defined in Budget-Treasury Regulation No. 1). It administers document and property security and the safety programs in the district.

[SEAL] O. GORDON DELK,
Deputy Commissioner.

[F. R. Doc. 57-6565; Filed, Aug. 9, 1957; 8:49 a. m.]

ATOMIC ENERGY COMMISSION

[Docket 50-58]

OKLAHOMA AGRICULTURAL AND MECHANICAL COLLEGE

PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue to Oklahoma Agricultural and Mechanical College, Stillwater, Oklahoma, the license set forth in Annex "A" below unless on or before 15 days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). There is set forth below as Annex "B" a memorandum submitted by the Division of Civilian Application which summarizes the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 6th day of August 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

ANNEX "A"

LICENSE AUTHORIZING ACQUISITION, POSSESSION AND OPERATION OF UTILIZATION FACILITY

On March 20, 1957, Oklahoma Agricultural and Mechanical College, Stillwater, Oklahoma, (hereinafter referred to as Oklahoma A&M) filed an application to acquire, possess and operate the nuclear reactor which is the subject of License R-9 and License R-12 issued to Aerojet-General Nucleonics and Aerojet-General Corporation respectively. An amendment to the application was filed on June 18, 1957. The application also seeks authorizations relating to special nuclear material, byproduct material and source material associated with the operation of the reactor.

The Atomic Energy Commission has found that:

A. The reactor is a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. There is reasonable assurance that the applicant will comply with the regulations in Chapter 1 of Title 10 of the Code of Federal Regulations, including the regulations in Part 20, and that the health and safety of the public will not be endangered by the operation of the facility as proposed in the application by Oklahoma A&M filed March 20, 1957, as amended.

C. The acquisition, possession, and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed by Oklahoma A&M in the application in Docket 50-58 will not be inimical to the common defense and security or to the health and safety of the public.

D. Oklahoma A&M proposes to utilize the reactor in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954.

E. Oklahoma A&M is financially qualified to operate the reactor in accordance with the regulations contained in Title 10, Chapter 1, CFR; to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

F. Oklahoma A&M is technically qualified to operate the reactor.

Subject to the conditions and requirements incorporated herein, the Atomic

Energy Commission hereby licenses Oklahoma A&M as provided below:

A. Pursuant to section 104c of the Atomic Energy Act of 1954 (hereinafter referred to as "the act") and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities," to acquire, possess, and operate the reactor at the location in Stillwater, Oklahoma, described in the application in Docket 50–58.

B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material Regulations," to receive, possess, and use up to 700 grams of contained uranium 235 as fuel for operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of Byproduct Material," Oklahoma A&M is licensed to possess but not to separate from the fuel or target material such byproduct material as may be produced from operation of the reactor.

This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; is subject to all applicable provisions of the Atomic Energy Act of 1954 and rules, regulations and orders of the Atomic Energy Commission now or hereafter in effect, and is subject to any additional conditions specified or incorporated below:

A. The reactor can only be operated in accordance with instructions from the Chief Reactor Supervisor.

B. The reactor shall not be operated unless Oklahoma A&M has an individual as Chief Reactor Supervisor who has been approved by the Commission.

C. The conditions and requirements contained in Appendix "A", attached hereto, are a part of this license.

D. This license shall expire 20 years from the date of issuance hereof unless sooner terminated.

For The Atomic Energy Commission.

———— ————,
Director,
Division of Civilian Application.

Date of issuance:

APPENDIX "A"

I. *Operating restrictions.* a. Oklahoma A&M shall operate the reactor in accordance with the procedures described in its application filed March 20, 1957, as amended, as such procedures may be further amended by this license.

b. Oklahoma A&M shall not operate the reactor at power levels in excess of 100 milliwatts without previous authorization from the Commission.

II. *Records.* In addition to those otherwise required under this license and applicable regulations Oklahoma A&M shall keep the following records:

a. Reactor operating records, including power levels.

b. Records of in-pile irradiations.

c. Records showing radioactivity released or discharged into the air or water beyond the effective control of Oklahoma A&M as measured at the point of such release or discharge.

d. Records of emergency reactor scrams, including reasons for emergency shutdowns.

III. *Reports.* Oklahoma A&M shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

ANNEX "B"

MEMORANDUM

The utilization facility proposed to be acquired and operated by the Oklahoma Agricultural and Mechanical College (Oklahoma A&M) is a small reactor of 100 milliwatt maximum power level constructed by Aerojet-General Nucleonics, San Ramon, California, (AGN) and designated by the company Model AGN–201, Serial No. 102. It is presently the subject of License R–9 and License R–12 issued to the manufacturer, Aerojet-General Nucleonics, and Aerojet-General Corporation respectively. The reactor to be acquired by Oklahoma A&M was authorized under License R–9 to be exhibited at the Oklahoma Semi-Centennial Exhibition and thereafter to be transferred without core to Oklahoma A&M for storage, pending action on this matter.

A complete description and hazards analysis of the reactor are contained in various license applications and amendments which have been submitted by AGN in Dockets F–15, F–32, F–44 and 50–53. A summary of the reactor description and detailed discussion of the hazards analysis by the Commission's staff have been incorporated in a memorandum accompanying the notice of proposed issuance of construction permit for this reactor published in the FEDERAL REGISTER on February 6, 1957, 22 F. R. 742.

Description of site. The reactor will be located on the campus of Oklahoma Agricultural and Mechanical College, located just outside the city limits of Stillwater, Oklahoma. The reactor is to be housed in the Chemical Engineering Building identified as Building Q–2. Building Q–2 is of quonset type construction on concrete slab floors. The steel framework is covered with sheet iron on the outside and insulation on the inside. The building is divided into offices and laboratories by wall board partitions. It is steam heated and ventilated by natural circulation of air. The reactor is to be located in Room 22. The ceiling of Room 22 will be raised to 15 feet and an adequate ventilating fan will be installed to provide forced circulation of fresh air. An open floor drain empties into a storm sewer which eventually empties into Stillwater Creek at the south edge of the city of Stillwater. Building Q–2 also is used for faculty offices, classrooms and laboratories.

Hazards analysis. The hazards and safety features associated with this reactor were discussed in the aforementioned memorandum published in the FEDERAL REGISTER.

It is concluded from an examination of the potential hazards and conceivable mishaps that (1) no significant amount of radiation or radioactive materials would be released and no hazard to the public would ensue from the proposed operation and (2) there are no characteristics of the site or proposed operations at the Oklahoma A&M campus which would detract from the safety of operation of the reactor.

Technical qualifications. The reactor is proposed to be utilized in conjunction with a curriculum now being developed by the Oklahoma Institute of Technology of Oklahoma A&M for a one-year graduate program leading to a Master of Science Degree in Nuclear Engineering Technology.

The organization devised for operation of the reactor by Oklahoma A&M should provide that the issuance of instructions with respect to operation of the reactor be given directly from the Chief Reactor Supervisor to the individuals operating the reactor. Accordingly, any determination of the technical qualifications of Oklahoma A&M to operate the reactor in a competent and safe manner rests largely upon a consideration of the background, the responsibilities, and the authority of the person who is designated Chief Reactor Supervisor. The person proposed by Oklahoma A&M to be the initial Chief Reactor Supervisor is Dr. John B. West. Dr. West obtained a PhD from Iowa State College and has completed courses in nuclear physics for engineers, nuclear engineering and radio-chemistry. His experience includes work at Knolls Atomic Power Laboratory, the Ames Laboratory of the Atomic Energy Commission and summer employment as a research participant at Argonne and Oak Ridge. In addition he has developed and taught courses in Nuclear Reactor Engineering and Nuclear Technology. While it has not been shown that Dr. West has been intimately associated with the operation of nuclear reactors, the background he has obtained from these activities plus his satisfactory completion of the one week course at the AGN plant in the operation of the reactor qualify him to be in charge of its operation. In addition, several members of the technical staff of Oklahoma A&M have participated in summer activities at Oak Ridge and Argonne National Laboratory. One staff member has had considerable experience in monitoring and surveying for radioactivity.

Since the University proposes that Dr. West be the initial Chief Reactor Supervisor and the Commission considers him to be qualified to occupy that position, and recognizing that the occupancy of the position of Chief Reactor Supervisor by any successor to Dr. West must be conditioned on the prior approval of the AEC, it is concluded that the Oklahoma A&M is technically qualified to operate the reactor.

Financial qualifications. Oklahoma A&M has received a grant from the AEC to cover the approximately $95,000 purchase price of the reactor. Annual operating expenses for the reactor are estimated to be $10,000. This amount has been budgeted for the 1958 fiscal year and is a minor portion of Oklahoma A&M's budget which reached almost $18,000,000 in the 1957 fiscal year.

Based on the above considerations it is concluded that:

a. There is reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor at the proposed site on the Oklahoma A&M campus.

b. Oklahoma A&M is technically and financially qualified to engage in the proposed activities.

Dated: August 6, 1957.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57–6567; Filed, Aug. 8, 1957; 12:30 p. m.]

[Docket 50–59]

TEXAS AGRICULTURAL AND MECHANICAL COLLEGE SYSTEM

PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue to Texas Agricultural and Mechanical College System, College Station, Texas, the license set forth in Annex "A" below unless on or before 15 days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). There is set forth below Annex "B" a memorandum submitted by the Division of Civilian Application which summarizes the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Docu-

ment Room, 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 6th day of August 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

ANNEX "A"

LICENSE AUTHORIZING ACQUISITION, POSSESSION AND OPERATION OF UTILIZATION FACILITY

On March 25, 1957, Texas Agricultural and Mechanical College System, College Station, Texas (hereinafter referred to as Texas A&M), filed an application to acquire, possess and operate the nuclear reactor which is the subject of License R–13 and License R–15 issued to Aerojet-General Nucleonics and Aerojet-General Corporation respectively. An amendment to the application was filed on June 17, 1957. The application also seeks authorizations relating to special nuclear material, by-product material and source material associated with the operation of the reactor.

The Atomic Energy Commission has found that:

A. The reactor is a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. There is reasonable assurance that the applicant will comply with the regulations in Chapter 1 of Title 10 of the Code of Federal Regulations, including the regulations in Part 20, and that the health and safety of the public will not be endangered by the operation of the facility as proposed in the application by Texas A&M filed March 25, 1957, as amended.

C. The acquisition, possession, and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed by the Texas A&M in the application in Docket 50–59 will not be inimical to the common defense and security or to the health and safety of the public.

D. Texas A&M proposes to utilize the reactor in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954.

E. Texas A&M is financially qualified to operate the reactor in accordance with the regulations contained in Title 10, Chapter 1, CFR; to assume financial responsibility for payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

F. Texas A&M is technically qualified to operate the reactor.

Subject to the conditions and requirements incorporated herein, the Atomic Energy Commission hereby licenses Texas A&M as provided below:

A. Pursuant to Section 104c of the Atomic Energy Act of 1954 (hereinafter referred to as "the act") and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities," to acquire, possess, and operate the reactor at the location in College Station, Texas, described in the application in Docket 50–59.

B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material Regulations," to receive, possess, and use up to 700 grams of contained uranium 235 as fuel for operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of Byproduct Material," to possess but not to separate from the fuel or target material such byproduct material as may be produced from operation of the reactor.

This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; is subject to all applicable provisions of the Atomic Energy Act of 1954 and rules, regulations and orders of the Atomic Energy Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below:

A. The reactor can only be operated in accordance with instructions from the Reactor Program Coordinator.

B. The reactor shall not be operated unless Texas A&M has an individual as Reactor Program Coordinator who has been approved by the Commission.

C. The reactor shall be located in an enclosure constructed in such fashion as to provide a solid separation from the remainder of the building and access to the reactor shall be limited to an entrance capable of being locked.

D. The conditions and requirements in Appendix "A" attached hereto are a part of this license.

E. This license shall expire 20 years from the date of issuance hereof unless sooner terminated.

For the Atomic Energy Commission.

———— ————,
Director,
Division of Civilian Application.

Date of issuance:

APPENDIX "A"

I. *Operating restrictions.* a. Texas A&M shall operate the reactor in accordance with the procedures described in its application filed March 25, 1957, as amended, as such procedures may be further amended by this license.

b. Texas A&M shall not operate the reactor at power levels in excess of 100 milliwatts without previous authorization from the Commission.

II. *Records.* In addition to those otherwise required under this license and applicable regulations, Texas A&M shall keep the following records:

a. Reactor operating records, including power levels.

b. Record of in-pile irradiations.

c. Records showing radioactivity released or discharged into the air or water beyond the effective control of Texas A&M as measured at the point of such release or discharge.

d. Records of emergency reactor scrams, including reasons for emergency shutdowns.

III. *Reports.* Texas A&M shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

APPENDIX "B"

MEMORANDUM

The utilization facility proposed to be acquired and operated by the Texas Agricultural and Mechanical System, College Station, Texas (Texas A&M), is a small reactor of 100 milliwatt maximum power level constructed by Aerojet-General Nucleonics, San Ramon, California (AGN) and designated by the company as Model AGN–201, Serial No. 106. It is presently the subject of License R–13, issued to the manufacturer, Aerojet-General Nucleonics and License R–15 which authorizes acquisition and transfer of title to the reactor by AGN's parent, Aerojet-General Corporation.

A complete description and hazards analysis of the reactor are contained in license applications and amendments submitted by AGN in Dockets F–15, F–32, F–44, and 50–53. A summary of the reactor description and discussion of the hazards analysis by the Commission's staff are set forth in a memorandum accompanying the Notice of Proposed Issuance of Construction Permit for this reactor in Docket F–32 published in the FEDERAL REGISTER on February 6, 1957, 22 FR 742.

Description of site. The reactor is to be located in a corner of the mechanical laboratory in the mechanical engineering shop building on the Texas A&M campus, College Station, Texas.

The floor of the room is reinforced concrete. There is one sink drain which connects with the college sanitary sewer system. Texas A&M states that approximately 18 students will occupy the mechanical laboratory at any one time, and that classes of 16 students will be in the adjoining welding shop.

A diagram of the first floor plan of the mechanical engineering shop building indicates that the reactor will be located in a 20-foot by 18-foot enclosure but no mention of this room is included in the building description. It is further noted that a window connects the reactor room with the welding shop. In order to insure security of the reactor when it is unattended, and to provide some degree of isolation in the event radioactive material is released near the reactor, the enclosure should be constructed to provide a solid separation from the remainder of the building and access to the reactor should be limited to an entrance capable of being locked.

Hazards analysis. The hazards and safety features associated with this reactor were discussed in the aforementioned memorandum published in the FEDERAL REGISTER.

It is concluded from an examination of the potential hazards and conceivable mishaps that (1) no significant amount of radiation or radioactive materials would be released and no hazards to the public would ensue from the proposed operation and (2) there are no characteristics of the site or proposed operations at the Texas A&M campus which would detract from the safety of operation of the reactor.

Technical qualifications. The reactor is proposed to be utilized primarily for the training of students in various fields of nuclear technology.

The organization which has been devised for operation of the reactor by Texas A&M places responsibility for the promulgation and enforcement of administrative rules, regulations and operating procedures on the Reactor Program Coordinator. In view of these important functions assigned to the Reactor Program Coordinator, the evaluation of the technical qualifications of Texas A&M to operate the reactor in a safe and competent manner must to a large measure rely on the qualifications of the individual in this position.

Texas A&M has employed as Reactor Program Coordinator Mr. Richard E. Wainerdi whose background in nuclear matters include his work toward a Master's and Doctor's Degree at Pennsylvania State University, completion of the Radioisotopes Handling Course at the Oak Ridge Institute of Nuclear Studies and completion of the course at the Oak Ridge Institute of Reactor Technology. In addition Mr. Wainerdi was employed as Coordinator of Nuclear Activities by Dresser Industries, Inc., and upon delivery of the reactor to Texas A&M he will complete AGN's reactor operator course.

Recognizing the importance of the Reactor Coordinator's position, Texas A&M amended its original application to provide that the reactor will be operated only under the responsible supervision of Mr. Wainerdi or an individual determined by the AEC to be of adequate capability for such supervision.

In view of the qualifications and position of Mr. Wainerdi and considering the less extensive but varied backgrounds of various other members of the Texas A&M staff in nuclear matters, it is concluded that the College is technically qualified to operate the reactor.

Financial qualifications. Texas A&M has received a grant from the AEC to cover the approximately $95,000 purchase price of the reactor. Annual operating expenses for the

reactor are estimated to be $10,000. This is a minor portion of the Texas A&M budget which amounted to $19,700,000 in the 1956 fiscal year.

Conclusions. Based on the above considerations it is concluded that:

a. There is reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor at the proposed site on the Texas A&M campus.

b. Texas A&M is technically and financially qualified to engage in the proposed activities.

Dated: August 6, 1957.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57-6568; Filed, Aug. 8, 1957; 12:30 p. m.]

[Docket 50-64]

UNIVERSITY OF AKRON

PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue to the University of Akron, Akron, Ohio, the license set forth in Annex "A" below unless on or before 15 days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). There is set forth below as Annex "B" a memorandum submitted by the Division of Civilian Application which sumarizes the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Document Room, 1717 H Street, NW., Washington, D. C.

Dated at Washington, D. C., this 6th day of August 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

ANNEX "A"

LICENSE AUTHORIZING ACQUISITION, POSSESSION AND OPERATION OF UTILIZATION FACILITY

On April 5, 1957, the University of Akron, Akron, Ohio, filed an application to acquire, possess and operate the nuclear reactor which is the subject of License R-14 and License R-16 issued to Aerojet-General Nucleonics and Aerojet-General Corporation, respectively. Amendments to the application were filed on June 10, 1957, and June 17, 1957. The application also seeks authorizations relating to special nuclear material, byproduct material and source material associated with the operation of the reactor.

The Atomic Energy Commission has found that:

A. The reactor is a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. There is reasonable assurance that the applicant will comply with the regulations in Chapter 1, of Title 10 of the Code of Federal Regulations, including the regulations in Part 20 and that the health and safety of the public will not be endangered by the operation of the facility as proposed in the application by the University of Akron filed April 5, 1957, as amended.

C. The acquisition, possession, and operation of the reactor and the receipt, possession and use of the special nuclear material in the application in Docket 50-64 will not be inimical to the common defense and security or to the health and safety of the public.

D. The University of Akron proposes to utilize the reactor in the conduct of research and development activities of the types specified in Section 31 of the Atomic Energy Act of 1954.

E. The University of Akron is financially qualified to operate the reactor in accordance with the regulations contained in Title 10, Chapter I, CFR; to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

F. The University of Akron is technically qualified to operate the reactor.

Subject to the conditions and requirements incorporated herein, the Atomic Energy Commission hereby licenses the University of Akron as provided below:

A. Pursuant to section 104c of the Atomic Energy Act of 1954 (hereinafter referred to as "the act") and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to acquire, possess, and operate the reactor at the location in Akron, Ohio, described in the application in Docket 50-64.

B. Pursuant to the act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material Regulations", to receive, possess, and use up to 700 grams of contained uranium 235 as fuel for the operation of the reactor.

C. Pursuant to the act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to possess, but not to separate from the fuel or target material, such byproduct material as may be produced from operation of the reactor.

This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; is subject to all applicable provisions of the Atomic Energy Act of 1954 and rules, regulations and orders of the Atomic Energy Commission now or hereafter in effect, and is subject to any additional conditions specified or incorporated below:

A. The reactor will only be operated in accordance with instructions from the Chief Reactor Supervisor.

B. The reactor shall not be operated unless the University of Akron has a Chief Reactor Supervisor who has been approved by the Commission.

C. The reactor shall be located in an enclosure constructed in such fashion as to provide a solid separation from the remainder of the building and access to the reactor shall be limited to an entrance capable of being locked.

D. The conditions and requirements contained in Appendix "A", attached hereto, are a part of this license.

E. This license shall expire 20 years from the date of issuance hereof unless sooner terminated.

For the Atomic Energy Commission.

———— ————,
Director,
Division of Civilian Application.

Date of issuance:

APPENDIX "A"

I. *Operating restrictions.* a. The University of Akron shall operate the reactor in accordance with the procedures described in its application filed April 5, 1957, as amended, as such procedures may be further amended by this license.

b. The University of Akron shall not operate the reactor at power levels in excess of 100 milliwatts without previous authorization from the Commission.

II. *Records.* In addition to those otherwise required under this license and applicable regulations the University of Akron shall keep the following records:

a. Reactor operating records, including power levels.

b. Records of in-pile irradiations.

c. Records showing radioactivity released or discharged into the air or water beyond the effective control of the University of Akron as measured at the point of such release or discharge.

d. Records of emergency reactor scrams, including reasons for emergency shutdowns.

III. *Reports.* The University of Akron shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

ANNEX "B"

MEMORANDUM

The utilization facility proposed to be acquired and operated by the University of Akron is a small reactor of 100 milliwatt maximum power level constructed by Aerojet-General Nucleonics, San Ramon, California (AGN), and designated by the company as Model AGN-201, Serial No. 108. It is presently the subject of License R-14, issued to the manufacturer, Aerojet-General Nucleonics, and License R-16 which authorizes acquisition and transfer of title to the reactor by AGN's parent, Aerojet-General Corporation.

A complete description and hazards analysis of the reactor are contained in various license applications and amendments which have been submitted by AGN in Dockets F-15, F-32, F-44 and 50-53. A summary of the reactor description and detailed discussion of the hazards analysis by the Commission's staff have been incorporated in a memorandum accompanying the notice of proposed issuance of construction permit for this reactor published in the FEDERAL REGISTER on February 6, 1957, 22 FR 742.

Description of site. The reactor will be housed in Simmons Hall, a building containing various laboratories, classrooms, and offices and lecture rooms, and located on the University of Akron campus in Akron, Ohio. The building is constructed of brick and reinforced concrete, and appropriate utilities are to be provided. Three alternative locations, all on the first floor of the building, were identified in plans submitted. No final determination has been made as to which location will be selected. Any of these locations would be acceptable provided the reactor is located in an enclosure set apart from the remainder of the building by a solid wall enclosure and access to the reactor is limited to an entrance capable of being locked.

Hazards analysis. The hazards and safety features associated with this reactor were discussed in the aforementioned memorandum published in the FEDERAL REGISTER.

It is concluded from an examination of the potential hazards and conceivable mishaps that (1) no significant amount of radiation or radioactive materials would be released, and no hazard to the public would ensue from the proposed operation, and (2) there are no characteristics of the site or proposed operations at the University of Akron which would detract from the safety of operation of the reactor.

Technical qualifications. The reactor is proposed to be utilized primarily for the training of students in various fields of nuclear technology. The organization devised for operation of the reactor by the University of Akron should provide that the issuance of instructions with respect to operation of the reactor be given directly from the Chief Reactor Supervisor to the individuals operating the reactor.

Accordingly, any determination of the technical qualifications of the University of Akron to operate the reactor in a competent and safe manner rests largely upon a consideration of the background, the responsibilities, and the authority of the person who

is designated Chief Reactor Supervisor. The person proposed by the University of Akron to be the initial Chief Reactor Supervisor is Mr. John D. Randall who will be on loan from AGN until such time as a successor may be trained or otherwise obtained by the University of Akron and approved for the position as Chief Reactor Supervisor by the AEC.

After majoring in engineering physics Mr. Randall obtained a Bachelor of Science Degree from the University of California in 1955. He was awarded a master of science degree in 1956, after completion of the University's graduate course in Nuclear Engineering.

He obtained background in practical reactor technology and operation in a one year course involving the use of the Livermore Water Boiler Reactor and has been employed by the University of California Radiation Laboratories as a member of an experimental group engaged in Bevatron experimentation. Since June 1956, he has been employed by AGN and assisted in the design and experimental work leading to the manufacture of the type of reactor which is to be acquired by the University of Akron. Mr. Randall has conducted a two months' nuclear engineering course for AGN staff members, is on the staff of the Engineering Extension Division of the University of California, and has recently been acting as alternate supervisor of AGN's reactor facilities.

Since the University proposes that Mr. Randall be the initial Chief Reactor Supervisor and the Commission considers him to be qualified to occupy that position and recognizing that the occupancy of the position of Chief Reactor Supervisor by any successor to Mr. Randall is conditioned on the prior approval of the Commission, it is concluded that the University of Akron is technically qualified to operate the reactor.

Financial qualifications. The General Tire and Rubber Company of Akron, Ohio, is donating the reactor to the University of Akron. The annual operating expenses are estimated at $10,000 which the University of Akron has budgeted for the coming fiscal year and which it states it will continue to do in the future. Consolidated expenditures of the University in 1955 were over $3,000,000.

Conclusions. Based on the above considerations it is concluded that:

a. There is reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor at the proposed site on the University of Akron campus.

b. The University of Akron is technically and financially qualified to engage in the proposed activities.

Dated: August 6, 1957.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57-6569; Filed, Aug. 8, 1957; 12:30 p. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[Public Announcement 3]

WELLTON-MOHAWK DIVISION, GILA PROJECT, ARIZONA

PUBLIC ANNOUNCEMENT OF THE SALE OF FARM UNITS

LANDS COVERED

JULY 25, 1957.

SECTION 1. *Offer of farm units for sale.* It is hereby announced that certain farm units on the Wellton-Mohawk Division of the Gila Project, as shown on approved farm unit plats on file in the office of the Project Manager, Yuma Projects Office, Bureau of Reclamation, Yuma, Arizona, and in the Land and Survey Office of the Bureau of Land Management at Phoenix, Arizona, will be sold to qualified applicants in accordance with the provisions of this announcement. Applications for purchase of farm units may be submitted beginning at 2:00 p. m., August 27, 1957.

In order to permit the continued orderly development and settlement of project lands, this public announcement is issued irrespective of there being pending applications for exchange pursuant to the act of August 13, 1953 (67 Stat. 566). Approval of such applications may make some of the farm units unavailable to applicants under this announcement.

The farm units hereby offered for sale by the United States are all in Yuma County, Arizona, and are described as follows:

Gila and Salt River Meridian, Arizona

Group A—Farm units in the Gila Valley on alluvial lands that are generally well adapted to all crops grown in the area.

	Farm unit No.	Section	Farm unit	Irrigation block	Total acres	Irrigable acres	Total price
Township 7 south, range 14 west	1	31	A	4	184.8	130.5	$556.65
Township 7 south, range 15 west	2	27	A	4	175.4	148.4	578.80
	3	35	A	4	198.0	162.7	650.23
Township 8 south, range 16 west	4	16	A	4	211.4	149.1	572.13
Township 8 south, range 18 west	5	14	E	1	160.9	143.4	498.10
Township 8 south, range 19 west	6	30	A	3	180.6	114.6	577.20
Township 8 south, range 20 west	7	25	B	3	200.3	155.1	787.00
Township 9 south, range 19 west	8	1	A	3	160.3	141.9	572.88
	9	10	B	3	201.0	132.7	730.68

Group B—Farm units on the Wellton and Mohawk mesas. These lands are sandier than the lands in Group A and generally must be stabilized and farmed with a legume crop such as alfalfa before nonlegumes will produce maximum yields.

	Farm unit No.	Section	Farm unit	Irrigation block	Total acres	Irrigable acres	Total price
Township 8 south, range 15 west	10	18	A	4	152.5	147.0	$551.78
Township 8 south, range 16 west	11	13	A	4	160.9	154.8	543.33
Township 8 south, range 17 west	12	25	A	4	165.8	143.2	535.65
	13	31	A	4	197.5	158.6	495.53
Township 9 south, range 18 west	14	7	A	4	200.5	161.1	590.63
Township 9 south, range 19 west	15	13	A	4	191.9	159.5	523.70
	16	13	B	4	160.7	148.5	568.45

Irrigation block (1) designates farm units located in Blk. 1, established Oct. 28, 1953.
Irrigation block (3) designates farm units located in Blk. 3, established Oct. 28, 1955.
Irrigation block (4) designates farm units located in Blk. 4, yet to be established.

SEC. 2. *Limit of acreage which may be purchased.* The lands covered by this announcement have been divided into farm units. Each of the farm units represents the acreage which, in the opinion of the Secretary of the Interior, may reasonably be required for the support of a family upon such lands. The areas in the different units are fixed at the amounts shown upon the farm unit plats referred to in section 1 of this announcement.

PREFERENCE RIGHTS OF VETERANS

SEC. 3. *Nature of preference.* Except for a prior preference given applicants for exchange of farm units under the provisions of the act of August 13, 1953 (67 Stat. 566) preference right to purchase the farm units described above will be given to certain veterans (and in some cases to their wives, husbands, or guardians of minor children) whose applications are received in the Office of the Project Manager, Yuma Projects Office, Bureau of Reclamation, Yuma, Arizona, before 2:00 p. m., November 27, 1957. The six classes of persons who will be eligible for this veterans preference are as follows:

(a) Persons, including those under 21 years of age, who have served in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States for a period of at least ninety (90) days at any time between September 16, 1940, and the official termination of the Korean conflict and who have been honorably discharged.

(b) Persons, including those under 21 years of age, who have served in the Army, Navy, Marine Corps, Air Force, or Coast Guard during the period described in subsection (a) of this section, regardless of length of service, and who have been discharged on account of wounds received or disability incurred during such period in the line of duty, or, subsequent to a regular discharge, have been furnished hospitalization or awarded compensation by the Government on account of such wounds or disability.

(c) The spouse of any person in either of the first two classes listed in this section, if the spouse has the consent of such person to exercise his or her preference right. (See subsection 7 (d) of this announcement regarding provision that a married woman must be head of a family.)

(d) The surviving spouse of any person in either of the first two classes listed in this section, or, in the case of the death or marriage of such spouse, the minor child or children of such person, by a guardian duly appointed and officially accredited at the Department of the Interior.

(e) The surviving spouse of any person whose death has resulted from wounds received or disability incurred in the line of duty while serving in the Army, Navy, Marine Corps, Air Force, or Coast Guard during the period described in subsection (a) of this section, or in the case of the death or marriage of such spouse, the minor child or children of such person, by a guardian duly appointed and officially accredited at the Department of the Interior.

(f) Persons who have served in the United States Army, Navy, Marine Corps, or Coast Guard during the War with Germany which commenced April 6, 1917, and terminated March 3, 1921, or during the War with Spain or the Suppression of the Insurrection in the Philippines, which war and insurrection commenced April 21, 1898, and terminated July 15, 1903, and were honorably separated or discharged thereform or placed in the regular Army or Naval Reserve.

In order to be eligible to purchase farm units, all applicants, except qualified exchange applicants, whether or not entitled to veterans preference, must possess the necessary qualifications as to character and industry, farm experience, health and capital (see section 6 of this announcement).

SEC. 4. *Definition of honorable discharge.* An honorable discharge means:

(a) Separation from the service by means of an honorable discharge or by the acceptance of resignation or a discharge under honorable conditions.

(b) Release from active duty under honorable conditions to an inactive status, whether or not in a reserve component, or retirement.

Any person who obtains an honorable discharge as herein defined shall be entitled to veterans preference even though such person thereafter resumes active military duty.

QUALIFICATIONS REQUIRED OF PURCHASERS

SEC. 5. *Examining Board.* An Examining Board of four members, including the Chief, Operations Division, of the Yuma Projects Office, Bureau of Reclamation, who will act as secretary of the Board, has been approved by the Commissioner of Reclamation to determine the qualifications and fitness of applicants to undertake the purchase, development and operation of a farm on the Wellton-Mohawk Division, Gila Project. The Board will make careful investigations to verify the statements made by applicants. Any false statement may constitute grounds for rejection of an application and cancellation of the applicant's right to purchase a farm unit.

SEC. 6. *Minimum qualifications.* This section sets forth the minimum qualifications which are necessary to give reasonable assurance of success of a contract purchaser of a farm unit. Applicants must be qualified to purchase a farm unit under the act of July 30, 1947 (61 Stat. 628), which prohibits the sale by the United States to an individual of more than one farm unit. Applicants, unless qualified exchange applicants, must, in the judgment of the Examining Board, meet these qualifications in order to be eligible for the purchase of farm units. Failure to meet them in any single respect will be sufficient cause for rejection of an application. No credit will be given for qualifications in excess of the required minimum.

The minimum qualifications are as follows:

(a) *Character and industry.* An applicant must be possessed of honesty, temperate habits, thrift, industry, seriousness of purpose, record of good moral conduct, and a bona fide intent to engage in farming as an occupation.

(b) *Farm experience.* Except as otherwise provided in this subsection, an applicant must have had a minimum of two years' (24 months) full-time farm experience, which shall consist of participation in actual farming operations, after attaining the age of 15 years. Time spent in agricultural courses in an accredited agricultural college or time spent in work closely associated with farming, such as teaching vocational agriculture, agricultural extension work, or field work in the production or marketing of farm products, which, in the opinion of the Board, will be of value to an applicant in operating a farm, may be substituted for full-time farm experience. Such substitution shall be on the basis of one year (academic year of at least nine months) of agricultural college courses or one year (twelve months) of work closely associated with farming for six months of full-time farm experience. Not more than one year of full-time farm experience of this type will be allowed. A farm youth who actually resided and worked on a farm after attaining the age of 15 and while attending school may credit such experience as full-time experience.

Applicants who have acquired their experience on an irrigated farm will not be given preference over those whose experience was acquired on a nonirrigated farm, but all applicants must have had farm experience of such a nature as, in the judgment of the Examining Board, will qualify the applicants to undertake the development and operation of an irrigated farm by modern methods.

(c) *Health.* An applicant must be in such physical condition as will enable him to engage in normal farm labor.

(d) *Capital.* An applicant must possess assets worth at least $5,000 in excess of liabilities. Assets must consist of cash, property or assets readily convertible into cash, or assets such as livestock, farm machinery and equipment, which, in the opinion of the Board, will be useful in the development and operation of a new, irrigated farm. Property not useful in the development of a farm will be considered if the applicant furnishes, at the Board's request, evidence of the value of the property and proof of its conversion into useful form. This conversion must be made before execution of the earnest money agreement or the land sale contract, whichever the Board believes appropriate. No value will be allowed for a passenger car or household goods. An applicant will be required to furnish a certified financial statement showing all of his assets and all of his liabilities. (See section 11 of this announcement.)

Before executing a land sale contract and acquiring the right of possession of the farm unit, the purchaser must establish, to the satisfaction of the Project Manager, that he has moved to the Wellton-Mohawk Division to take possession of the farm unit selected and reestablish his net worth as required above, except that the amount paid as an earnest money deposit can be credited as part of the assets making up the applicant's total net worth.

SEC. 7. *Other qualifications required.* All applicants (except guardians) must meet the following requirements:

(a) Must be a citizen of the United States or have declared an intention to become a citizen of the United States.

(b) Must not own more than 160 acres of land in the United States at the time of his execution of a land sale contract.

(c) Must not previously have purchased a full-time farm from the United States under provisions of Reclamation Law, excepting therefrom actions under the above-mentioned Exchange Act of August 13, 1953.

(d) Must, if a married woman, or a person under 21 years of age, who is not eligible for veterans preference, be the head of a family. The head of a family is ordinarily the husband, but a wife or a minor child who is obliged to assume major responsibility for the support of a family may be the head of a family.

(e) Except in the case of qualified exchange applicants, must not hold or own, within any Federal Reclamation Project, irrigable land for which construction charges payable to the United States have not been fully paid, except that this restriction does not apply to small tracts used exclusively for residential purposes.

An applicant who owns lands in a Federal Reclamation Project must furnish satisfactory evidence prior to execution of the land sale contract that the total construction charges allocated against the land owned by the applicant have been paid in full.

WHERE AND HOW TO SUBMIT AN APPLICATION FOR A FARM UNIT

SEC. 8. *Application blanks.* Any person desiring to purchase a farm unit offered for sale by this announcement must fill out the attached application blank (Form 7-511a), and file it with the Project Manager, Yuma Projects Office, Bureau of Reclamation, Yuma, Arizona, in person or by mail. Additional application blanks may be obtained from the Bureau of Reclamation, Yuma, Arizona; the Regional Director, Bureau of Reclamation, Boulder City, Nevada; or the Commissioner of Reclamation, Department of the Interior, Washington 25, D. C. No advantage will accrue to an applicant who presents an application in person. Each application submitted, including evidence of qualification to be submitted following the public drawing, will become a part of the records of the Department of the Interior and cannot be returned to the applicant. For this reason, original discharge or citizenship papers should not be submitted.

SELECTION OF QUALIFIED APPLICANTS

SEC. 9. *Priority of applications.* All applications, including those filed by qualified exchange applicants must be received prior to 2:00 p. m., November 27, 1957. All applications, except those received from exchange applicants, which shall be given a prior preference, will be classified for priority purposes and considered in the following order:

(a) *First Priority Group.* All complete applications filed prior to 2:00 p. m., November 27, 1957, by applicants who claim veterans preference. All such applications will be treated as simultaneously filed.

(b) *Second Priority Group.* All complete applications filed prior to 2:00 p. m., November 27, 1957, by applicants who do not claim veterans preference. All such applications will be treated as simultaneously filed.

(c) *Third Group.* All complete applications filed after 2:00 p. m., November 27, 1957. Such applications will be considered in the order in which they are filed if any farm units are available for sale to applicants within this group.

SEC. 10. *Public drawing.* After the priority classification, the Board will conduct a public drawing of the names of the applicants in the First Priority Group as defined in subsection 9 (a) of this announcement. Applicants need not be present at the drawing in order to participate therein. The names of a sufficient number of applicants (not less than four times the number of farm units offered for sale) shall be drawn and numbered in the order drawn for the purpose of establishing the order in which the applications drawn will be examined by the Board to determine whether the applicants meet the minimum qualifications prescribed in this announcement, and to establish the priority of qualified applicants for the selection of farm units. After such drawing, the Board shall notify only those applicants, whose names are drawn of their respective standings.

SEC. 11. *Submission of evidence of qualification.* After the drawing a sufficient number of applicants, in the order of their priority as established in the drawing, will be supplied with forms on which to submit evidence of qualification showing that they meet the qualifications set forth in sections 6 and 7 of this announcement and, in case veterans preference is claimed, establishing proof of such preference, as set forth in section 3 of this announcement. Full and accurate answers must be made to all questions. The completed form, together with any attachments required, must be received in the office of the Project Manager, Yuma Projects Office, Bureau of Reclamation, Yuma, Arizona, within 20 days of the date the form is mailed to the last known address furnished by the applicant. Failure of an applicant to furnish all of the information requested or to see that information is furnished by his references within the period specified will subject his application to rejection.

SEC. 12. *Examination and interview.* After the information requested as outlined in section 11 of this announcement has been received or the time for submitting such statements has expired, the Board shall examine in the order drawn a sufficient number of applications, together with the evidence of qualification submitted, to determine the applicants who will be permitted to purchase farm units. This examination will determine the sufficiency, authenticity, and reliability of the informtion and evidence submitted by the applicants. If the examination indicates that an applicant is qualified, the applicant may be required to appear for a personal interview with the Board for the purpose of: (a) Affording the Board any additional information it may desire relative to his qualifications; (b) affording the applicant any information desired relative to conditions in the area and the problems and obligations relative to development of a farm unit; and (c) affording the applicant an opportunity to examine the farm units. If the applicant fails to appear before the Board for a personal interview when requested he shall thereby forfeit his priority as established by the drawing.

If the Board finds that an applicant's qualifications fulfill the requirements prescribed in this announcement, such applicant shall be notified, in person or by certified mail, that he is a qualified applicant and shall be given an opportunity to select one of the farm units then available for purchase. An applicant will be required prior to the execution of a land sale contract to submit evidence satisfactory to the Board that he does not own more than 160 acres of land in the United States.

If the applicant fails to supply any of the information required or the Board finds that the applicant's qualifications do not meet the requirements prescribed in this announcement, the applicant shall be disqualified and shall be notified by the Board, by certified mail, of such disqualification and the reasons therefor and of the right to appeal to the Regional Director, Region 3, Bureau of Reclamation. All appeals must be received in the office of the Project Manager, Yuma Projects Office, within 15 days of the applicant's receipt of such notice, or in any event, within 30 days from the date the notice is mailed to the last address furnished by the applicant. The Project Manager will forward the appeals promptly to the Regional Director. The Regional Director's decision on all appeals shall be final.

SELECTION OF FARM UNITS

SEC. 13. *Order of selection.* The applicants who have been notified of their qualification to purchase a farm unit will successively exercise the right to select a farm unit in accordance with the priority established by the drawing. If a farm unit becomes available through failure of a qualified applicant to exercise his right of selection or failure to complete his purchase, it will be offered to the next qualified applicant who has not made a selection at the time the unit is again available. An applicant who is considered to be disqualified as a result of the personal interview will be permitted to exercise his right to select, notwithstanding his disqualification, unless he voluntarily surrenders this right in writing. If, on appeal, the action of the Board in disqualifying an applicant as a result of the personal interview is reversed by the Regional Director, the applicant's selection shall be effective, but if such action of the Board is upheld by the Regional Director, the farm unit selected by this applicant will become available for selection by qualified applicants who have not exercised their right to select.

If any of the farm units listed in this announcement remain unselected after all qualified applicants whose names were selected in the drawings have had an opportunity to select a farm unit, and if additional applicants remain in the First Priority Group, the Board will follow the same procedure outlined in section 10 of this announcement in the selection of additional applicants from this group.

If any of the farm units remain unselected after all qualified applicants in the First Priority Group have had an opportunity to select a farm unit, the Board will follow the same procedure to select applicants from the Second Priority Group and they will be permitted to exercise their right to select a farm unit in the manner prescribed for the qualified applicants from the First Priority Group.

Any farm units remaining unselected after all qualified applicants in the Second Priority Group have had an opportunity to select a farm unit will be offered to applicants in the Third Group in the order in which their applications were filed, subject to the determination of the Board, made in accordance with the procedure prescribed herein, that such applicants meet the minimum qualifications prescribed in this announcement.

If any farm unit offered by this announcement remains unsold for a period of 2 years following the date of this announcement, the unit, unless withdrawn from the announcement, will be offered to the first applicant who files an application after the expiration of the two-year period and who meets the qualifications prescribed by this announcement, without regard to veterans preference.

SEC. 14. *Failure to select.* If any applicant, except a qualified exchange applicant, refuses to select a farm unit or fails to do so within the time specified by the Board, such applicant shall forfeit his position in his priority group and his name shall be placed last in that group.

SEC. 15. *Execution of earnest money agreement and land sale contract.* When a farm unit is selected by an applicant as provided in section 13 of this announcement, the Project Manager will promptly give the applicant a written notice confirming the availability to him of the unit selected and will furnish an earnest money agreement together with instructions concerning its execution and return. In that notice, the Project Manager will inform the applicant (1) of the amount of his downpayment, and (2) any further action required in connection with the conversion of assets pursuant to subsection 6 (d), the payment pursuant to subsection 7 (e) of construction

charges on lands owned on any Reclamation Project, and the submission pursuant to section 12 of evidence that he does not own more than 160 acres of land in the United States.

The earnest money agreement will require the applicant to deposit $1.00 per acre or 10 percent of the purchase price of the farm, whichever amount is greater, with the Project Manager. The amount deposited with the earnest money agreement will be applied to the downpayment required in the land sale contract if the applicant (1) submits proof that he has moved to the Wellton-Mohawk Division, Gila Project, within six months of the date of the earnest money agreement and possesses the minimum capital assets required under subsection 6 (d), and (2) executes a land sale contract in accordance with the Project Manager's instructions. If, in the opinion of the Project Manager, the applicant fails to comply with any of the requirements described in this paragraph, his right to purchase the farm unit will be subject to cancellation and the amount he has deposited as earnest money will be subject to forfeiture as liquidated damages.

When the applicant submits proof to the Project Manager or his representative that he has moved to the Wellton-Mohawk Division to take possession of the farm unit and that he possesses the minimum capital assets required under subsection 6 (d), the Project Manager will promptly furnish the applicant the necessary land sale contract, together with instructions concerning its execution and return. Such proof shall be in the form of an affidavit that he has actually moved to the Division, and shall include a current financial statement. A personal inspection of farm equipment may be made by a representative of the Project Manager.

SEC. 16. *Terms of sale.* Contracts for the sale of farm units pursuant to this announcement will contain among other things, the following principal provisions:

(a) *Downpayment.* An initial or downpayment of $1.00 per acre or 10 percent of the purchase price, whichever is greater, will be required upon execution of the earnest money agreement for application against the purchase price specified in the land sale contract. Larger proportions, or the entire amount of the purchase price, may be paid initially at the purchaser's option.

(b) *Schedule for payment of balance and interest rate.* If only a portion of the purchase price is paid initially, the balance will be payable within a period of 8 years following the date of the land sale contract. No payments on the balance of the principal will be required during the first three years. The balance of the principal will be payable in five equal installments, which shall be payable at yearly intervals on the anniversary date of the land sale contract beginning three (3) years after the date thereof. Payment of any or all installments or any portion thereof may be made before the due date at the purchaser's option. No interest shall be charged on any charges due from the purchaser except that on all such charges or any part thereof which remain unpaid by the purchaser to the United States after the same become due, an interest charge of ½ of 1 percent of the amount unpaid shall be added thereto and thereafter an additional interest charge of ½ of 1 percent of the principal sum unpaid shall be added on the first day of each succeeding calendar month until the amount due, including such interest, is paid in full.

(c) *Cultivation requirements.* In order that the irrigable area of the farm unit shall be developed with reasonable dispatch each purchaser will be required, as a minimum, to clear, level, irrigate and grow remunerative crops on at least ½ of the irrigable area of the farm unit for at least two years (24 consecutive months) prior to eight years from the date of execution of the contract or before receiving title to the unit, whichever is earlier. The crop production requirements of this section must be performed by the purchaser personally, by members of his immediate family residing with him, or by persons employed under his direction, supervision and management.

(d) *Residence and improvement requirements.* A major objective of the settlement program of the Gila Project is to assist and encourage permanent settlement of farm families. In keeping with this objective each purchaser will be required to reside on the land for a period of at least seven months during each of the three 12-month periods immediately following the establishment of residence, except that military and naval service of honorably discharged veterans with at least 90 days' service may be substituted month for month for the seven months of residence required during the third 12-month period and such service in excess of twelve months may be substituted month for month for the seven months of residence required during the second 12-month period. Such residence must be established by the purchaser by personally moving onto the farm unit within six months from the date of the earnest money agreement or within six months from the date that water is first made available to the irrigation block in which the farm unit is located, whichever is later. The time for compliance with the establishment of residence may be extended by the Project Manager for a period as long as six months, upon his determination that an extension is necessary to avoid undue hardship to the purchaser and that it will not be detrimental to the orderly development of the irrigation block, but the initial date for establishment of residence shall not in any event be extended for more than one year beyond the initial period first above provided. The purchaser shall erect a habitable dwelling upon the farm unit before receiving title to the unit. No assignment by a purchaser of any interest acquired under this announcement shall be valid unless approved in writing by the Regional Director. Such approval will not be given until all the requirements set out in this subsection have been fulfilled unless waived pursuant to the following subsection.

(e) *Waiver clause.* In extraordinary situations, any or all of the requirements set out in (c) and (d) above may be waived by the Regional Director on his determination, after recommendation by the Project Manager, that such waiver would be in the interest of the orderly development of the irrigation block.

(f) *Land holding limitations.* The farm units are sold pursuant to the provisions of this announcement and the provisions of the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly the act of December 21, 1928 (45 Stat. 1057), as amended, and the act of July 30, 1947 (61 Stat. 628), and of the contract dated March 4, 1952, between the United States and Wellton-Mohawk Irrigation and Drainage District entitled: "Contract with Wellton-Mohawk Irrigation and Drainage District for Construction of Works and for Delivery of Water," as supplemented and amended June 19, 1954, October 13, 1954, December 16, 1954, April 25, 1955 and December 9, 1955, and the purchaser must agree to comply with all the terms, conditions and limitations thereof and of Articles 24, 25, and 26 of said contract, which provide, among other things, for the execution of recordable "excess-land" contracts.

(g) *Copies of the contract form.* The terms listed above and other contract provisions are contained in the "Land Sale Contract" form, copies of which may be examined in the offices of the Project Manager, Yuma Projects Office, Bureau of Reclamation, Yuma, Arizona, or the offices of the Regional Director, Bureau of Reclamation, Boulder City, Nevada.

IRRIGATION, GENERAL REPAYMENT OBLIGATION AND OTHER CHARGES

SEC. 17. *Temporary water rental charges.* While some construction activity is continuing and the irrigation system is being tested it is expected that water will be furnished on a temporary rental basis to those desiring it on terms which will be announced by the Regional Director.

SEC. 18. *Charges for water delivery during development period.* Pursuant to the provisions of the repayment contract of March 4, 1952, as supplemented and amended June 19, 1954, October 13, 1954, December 16, 1954, April 25, 1955 and December 9, 1955, hereinafter referred to as the contract of March 4, 1952, between the United States and the Wellton-Mohawk Irrigation and Drainage District, the Secretary of the Interior has announced development periods of 10 years starting October 28, 1953, for lands in Irrigation Block No. 1, and November 3, 1954, for lands in Irrigation Block No. 2, and October 28, 1955, for lands in Irrigation Block No. 3, and will announce a similar 10-year development period for lands in each irrigation block or blocks yet to be announced in the Wellton-Mohawk Division, during which time payment of general repayment obligation charges will not be required. Charges for delivery of water during the development period for each irrigation block will

be established in accordance with the aforementioned contract of March 4, 1952.

In addition to temporary water rental charges and charges for delivery of water during development period, the farm unit will be subject to District taxes and assessments as provided in Section 20. From time to time following the beginning of the development period for each irrigation block, the District upon making appropriate arrangements with the Secretary may undertake the care, operation and maintenance of the distribution system and other works except those specified as reserved works by the contract of March 4, 1952. After assumption of responsibility for operation and maintenance of works by the District, the District will make such charges as may be required to meet costs of the care, operation, and maintenance of works transferred to it. These charges will be payable in addition to charges which will be made for the care, operation and maintenance of works retained by the United States and utilized in delivery of water to works under the care of the District.

SEC. 19. *Payments after development period.* The District shall, when necessary, levy and collect appropriate taxes, assessments and/or other charges sufficient to enable it to pay to the United States operation and maintenance charges and general repayment obligation charges as provided in the contract of March 4, 1952.

The general repayment obligation of the District subject to certain qualifications will not exceed $42,000,000. Said obligation will be allocated among several irrigation blocks aggregating approximately 75,000 irrigable acres. Each irrigation block will be required to pay its allocated share during the 60-year period immediately following the end of its development period. District levies covering these charges will be graduated according to the productivity group, in which the land is situated in accordance with the mechanics therefor provided in the repayment contract. At the option of the Board of Directors of the District, payment of these charges will be computed in accordance with a variable formula providing for payment of lesser amounts during periods of low agricultural prices and greater payments during periods of high agricultural prices.

SEC. 20. *Taxes and assessments.* On the first Monday of the January next succeeding the date of each land sale contract the lands covered by such contract shall, within the limitations set out in Article 22 of the above-mentioned District contract dated March 4, 1952, become subject to the provisions of the laws of the State of Arizona relating to the organization, government and regulation of irrigation, electrical power and other similar districts and subject to legal assessment or taxation by any such district and by said State or political subdivisions thereof, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands, and shall remain subject thereto during the time such land sale contract shall remain in effect. After title to said lands has passed to the purchaser, he will be subject to the same obligations as the owner of private lands situate within the District.

GENERAL PROVISIONS

SEC. 21. *Warning against unlawful settlement.* No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the lands covered by this announcement, except under the terms and conditions prescribed herein.

SEC. 22. *Reservation of rights-of-way for public roads.* Rights-of-way along section lines and other lines shown in red on the farm unit plats described in section 1 of this announcement are reserved for county, state and Federal highways and access roads to the farm units shown on said farm unit plats.

SEC. 23. *Reservations and exceptions.* The sales of the farm units will be subject to existing rights-of-way in favor of the public or third parties and to any existing oil and gas leases. In each such sale, there will be reserved to the United States and its successors and assigns in the operation and maintenance of the Wellton-Mohawk Division rights-of-way for canals, laterals, ditches, levees, dikes, roadways, pipelines, electric transmission lines, and telephone and telegraph lines. There may also be reserved to the United States any mineral, oil, and gas rights if required.

SEC. 24. *Flood hazard.* The lands to be sold in the Gila Valley lie in the flood plain of the Gila River and may be subject to flooding from runoff after heavy rains. A flood control dam has been authorized for construction by the Corps of Engineers, U. S. Army, above the project area but money has been appropriated only for advance planning. Purchasers are warned that in case of runoff resulting in the flooding of any of the lands the Government assumes no responsibility for damage to persons or property caused by such flooding.

NOTE: The reporting requirement of this announcement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

[F. R. Doc. 57-6547; Filed, Aug. 9, 1957; 8:46 a. m.]

Office of the Secretary

SAN CARLOS RESERVATION

APPLICATION OF FEDERAL INDIAN LIQUOR LAWS

Pursuant to the act of August 15, 1953 (Public Law 277—83d Cong., 1st Sess.), I certify that the following ordinance relating to the application of the Federal Indian liquor laws on the San Carlos Reservation was duly adopted by the San Carlos Council which has jurisdiction over the area of Indian country included in the resolution:

Be it enacted by the San Carlos Council, in council assembled, as follows:

SECTION 1. Pursuant to the provisions of Public Law 277, 83d Congress, approved August 15, 1953 (67 Stat. 586), and the provisions of the third paragraph of Article 20, as amended, election November 2, 1954, effective November 23, 1954, Constitution of the State of Arizona, the introduction, sale or possession of intoxicating beverages shall be lawful on and after July 1, 1957, within the Indian country under the jurisdiction of the San Carlos Apache Tribe, Arizona, Provided, that such introduction, sale or possession shall be in conformity with the laws of the State of Arizona.

SEC. 2. The laws of the State of Arizona and the rules and regulations of the Department of Liquor Licenses and Control of the State of Arizona governing the retail sale of spirituous liquors are hereby adopted and made applicable within the Indian country under the jurisdiction of the San Carlos Apache Tribe, Arizona.

SEC. 3. Any tribal laws, ordinances and resolutions heretofore enacted which prohibit the introduction, sale or possession of intoxicating beverages are hereby repealed.

ROGER ERNST,
Assistant Secretary of the Interior.

AUGUST 6, 1957.

[F. R. Doc. 57-6548; Filed, Aug. 9, 1957; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11735; FCC 57-935]

NEVADA TELECASTING CORP. (KAKJ)

REVOCATION OF TELEVISION CONSTRUCTION PERMIT

In the matter of revocation of television construction permit of Nevada Telecasting Corporation (KAKJ), Reno, Nevada; Docket No. 11735.

1. The Commission has under consideration (1) a petition to enlarge the scope of the Order to Show Cause in the above-entitled matter, filed on June 27, 1957, by the Commission's Broadcast Bureau, (2) an opposition thereto filed on July 1, 1957, by Nevada Telecasting Corporation, and (3) a reply to an opposition filed on July 8, 1957, by the Commission's Broadcast Bureau.

2. The above-entitled Order to Show Cause was issued on June 13, 1956 as the result of information received by the Commission as to misrepresentation of the ownership of Nevada Telecasting Corporation. The said information came to the Commission's attention subsequent to grant of Nevada Telecasting Corporation's application for a permit to construct a new television broadcast station to operate on Channel 4 at Reno, Nevada.

3. On September 25, 1956, an ownership report on FCC Form 323 was filed by one Irvin V. Willat, which report indicated that on April 27, 1956, Willat had purchased the 100 percent stock interest of Robert C. Fish in Nevada Telecasting Corporation and that on September 15, 1956, the stock thus purchased was further distributed as follows:

Irvin V. Willat, 6,700 shares (26.8 percent);
Eldon E. Cory, 6,700 shares (26.8 percent);

Raymond B. Vargas, 6,600 shares (26.4 percent);
Gordon E. Morris, 3,500 shares (14 percent; and
Evan Lougheed, 1,500 shares (6 percent).

4. In addition to the above-described ownership report filed by Willat, Nevada Telecasting Corporation filed a pleading on November 25, 1956, which requested waiver of the requirements for filing a formal application for transfer of control, reconsideration of the Order to Show Cause, and grant without hearing of its application filed on May 14, 1956 (BAPCT-185) for assignment of Nevada Telecasting Corporation's construction permit to Tower Telecasting Company. By Commission action of February 20, 1957, this pleading was denied in its entirety. A prehearing conference was held by the hearing examiner on June 26, 1957, at which time it was ruled that the unauthorized transfers of control reported by the above-referenced Form 323 (paragraph 3, supra), and the resulting violations of section 310 (b) of the Communications Act of 1934, as amended, were not encompassed within the Order to Show Cause as presently framed. As a result of the hearing examiner's ruling, the Broadcast Bureau thereafter filed the instant petition requesting that the scope of the Order to Show Cause be enlarged to include these matters.

5. In support of its request, the Broadcast Bureau asserts that the unauthorized transfers of control reported on September 25, 1956, standing alone, would warrant revocation of Nevada Telecasting Corporation's construction permit.

6. Nevada Telecasting Corporation opposes the petition to enlarge on the grounds that:

a. The Commission was advised by Nevada Telecasting Corporation's petition of September 25, 1956 (paragraph 4, supra) of the facts relating to the unauthorized transfers of control.

b. Since the Commission, in denying the September 25, 1956, petition, supra, took no action to enlarge the show cause proceeding, it apparently did not consider that the unauthorized transfers merited a revocation proceeding.

c. Such consideration by the Commission is understood as being well taken when it is realized that the ownership change described in paragraphs 4 and 5, supra, came about in an attempt to comply with the Commission's requirements.

d. The Broadcast Bureau is, in effect, requesting that the Commission use Nevada Telecasting Corporation's efforts at compliance as a vehicle for revocation.

7. The petition is also opposed on procedural grounds, it being asserted that section 9 (b) of the Administrative Procedure Act which is incorporated by reference in section 312 of the Communications Act provides that before a revocation proceeding is instituted, the licensee (or permittee) shall be advised of the facts which may warrant the revocation action and shall be accorded an opportunity to achieve compliance with all lawful requirements. It is therefore stated that the statute requires that before the Order to Show Cause be enlarged, the respondent must be first advised of the violation in writing and be given an opportunity to comply with the lawful requirements of the Commission. Nevada further states, however, as follows: "While such a notice to respondent can now be deemed unnecessary because of respondent's efforts to meet 'all requirements', there can be no gainsaying the fact that the Broadcast Bureau cannot now use respondent's effort at compliance as a basis for revocation."

8. Relative to respondent's contentions as to section 9 (b) of the Administrative Procedure Act, in our view adequate notice and full opportunity to reply to the matters here under consideration has been afforded. Respondent has availed itself of this opportunity in its opposition herein. Thus, its procedural rights have been fully protected. Additionally, this contention must fail in view of respondent's statement (paragraph 7, supra) that such notice "* * * can now be deemed unnecessary * * *."

9. Other arguments advanced by Nevada Broadcast Corporation are in the nature of pleas in mitigation, it being undisputed that control of the respondent corporation was transferred without the Commission's authority. Whether the transfers constituted such a willful violation as to warrant revocation of the said permit under the provisions of section 312 of the Communications Act is a matter which the Commission cannot determine upon the sole basis of the pleadings before it. It is also to be noted that the matters here involved arose out of the matters leading to original issuance of the Order to Show Cause herein and accordingly constitute a part thereof. In view of the foregoing, the Commission believes that the scope of the Order to Show Cause should be enlarged as requested by Broadcast Bureau's petition.

Accordingly, *It is ordered*, This 5th day of August 1957, that the petition of the Commission's Broadcast Bureau to enlarge the scope of the Order to Show Cause is granted and that the said Order to Show Cause is enlarged to include the following as paragraphs immediately preceding the first ordering clause therein:

"It further appearing that on April 27, 1956, a meeting of the corporate officers of Nevada Telecasting Corporation was held; that at this meeting Mr. Fish, the sole stockholder, resigned as President of the corporation and Irvin V. Willat was elected President in his place and was instructed to negotiate the sale of the corporation assets and construction permit to Tower Telecasting Company; that simultaneous with his resignation as President of the corporation Fish sold and transferred all of his rights in the corporation to Willat for $500; that Fish is presently residing in Canada and has no interest, corporate or otherwise, in Nevada Telecasting Corporation.

"It further appearing that on September 25, 1956, Irvin V. Willat filed an ownership report (FCC Form 323) reporting that on April 27, 1956, Willat had purchased Fish's interest in the corporation and that on September 25, 1956, stock of the corporation was issued as follows: Irvin V. Willat, 6700 shares (26.8 percent); Eldon E. Cory, 6700 shares (26.8 percent); Raymond D. Vargas, 6600 shares (26.4 percent); Gordon E. Morris, 3500 shares (14 percent); and Evan Lougheed, 1500 shares (6 percent). This stock represents the ownership of the stockholders in the assets of the corporation prorated to the amounts of their respective investments in the corporation. This transfer of control of the corporate permittee was effectuated without requesting or receiving the prior consent of the Commission, as required by section 310 (b) of the Communications Act of 1934, as amended. This willful violation of the act has resulted in the complete abandonment of the construction permit by Robert C. Fish, the sole stockholder of Nevada, and the individual whose qualifications were passed upon by the Commission."

Released: August 7, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-6583; Filed, Aug. 9, 1957; 8:52 a. m.]

[Docket Nos. 12069, 12070; FCC 57M-758]

KIRKWOOD BROADCASTING CO. AND ST. CHARLES COUNTY BROADCASTING CO.

ORDER FOLLOWING HEARING CONFERENCE

In re applications of James R. Roberts, Robert D. Rapp and Martha M. Rapp d/b as Kirkwood Broadcasting Company, Kirkwood, Missouri; Docket No. 12069, File No. BP-10863; St. Charles County Broadcasting Company, St. Charles, Missouri; Docket No. 12070, File No. BP-11066; for construction permits.

Based on discussions had and agreements and rulings made at a pre-hearing conference held in the above-entitled matter on July 26, 1957, *It is ordered*, This 5th day of August 1957 that the following procedures shall, unless later modified by ruling of the Examiner, be effectuated at further proceedings:

(1) Assuming that DeSoto Broadcasting Company, BP-11401, and Chester Broadcasting Company, BP-11417 (both of whom, it is understood, are eligible to be consolidated into this proceeding) can accommodate themselves to it, the following procedures will be effectuated during the course of further proceedings:

SCHEDULE OF DATES

Date for exchange of exhibits—September 13, 1957.
Date for further conference—September 18, 1957.
Date of hearing—September 23, 1957.

(2) All parties will make direct presentations in writing.

(3) Should the radio interests of Cecil W. and June A. Roberts become relevant in this proceeding, those interests, including the location of any pertinent service contour, will be offered in evidence by Kirkwood Broadcasting Company.

(4) Kirkwood Broadcasting Company's showing on possible overlap of the 25 mv/m contour of its proposed operation with the 25 mv/m contour of Station WIL, St. Louis, will be based on field strength measurements.

(5) All parties will make direct presentation in a factual manner unembellished with laudatory comment or legal conclusions.

Released: August 6, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-6584; Filed, Aug. 9, 1957; 8:52 a. m.]

[Docket Nos. 12104, 12105; FCC 57M-756]

RALPH D. EPPERSON AND WILLIAMSBURG BROADCASTING CO.

In re applications of Ralph D. Epperson, Williamsburg, Virginia; Docket No. 12104, File No. BP-10958; Mary Cobb and Richard S. Cobb, d/b as Williamsburg Broadcasting Co., Williamsburg, Virginia; Docket No. 12105, File No. BP-11119; for construction permits.

Notice is hereby given that a prehearing conference, in accordance with § 1.813 of the rules, will be held in the above-entitled matter at 10:00 a. m., September 6, 1957, in the Commission's offices at Washington, D. C.

Dated: August 5, 1957.

Released: August 5, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] EVELYN F. EPPLEY,
Acting Secretary.

[F. R. Doc. 57-6585; Filed, Aug. 9, 1957; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 59-102]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

NOTICE OF AND ORDER FOR HEARING

AUGUST 5, 1957.

In the matter of New England Electric System and its Subsidiary Companies, respondents, File No. 59-102.

The Commission having been advised by its Division of Corporate Regulation ("Division") that the Division, pursuant to sections 11 (a), 18 (a) and 18 (b) of the Public Utility Holding Company act of 1935 ("act"), has examined the corporate structure of New England Electric System, the corporate structure of its subsidiary companies, the relationships among the companies in the holding company system, the character of the interests thereof and the properties owned or controlled thereby; and it appearing to the Division from such examination that:

I. 1. New England Electric System ("NEES"), a voluntary association created in 1926 in Massachusetts by Agreement and Declaration of Trust, is solely a holding company and is registered as such under section 5 of the act. It maintains its principal offices in the city of Boston, Massachusetts.

2. As of December 31, 1956, NEES had 32 subsidiaries, of which 16 were engaged exclusively in the electric business, one was engaged in the electric and gas business, one was in the process of constructing a nuclear power plant, eight were engaged exclusively in the gas business, one owns land, four were inactive and one was engaged in the business of rendering services for system companies. Taken together these subsidiaries conduct their businesses in the States of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, comprising an area of about 4,500 square miles and having a total population in excess of 2,200,000 persons.

3. (a) The names of the subsidiary companies embraced in the holding company system of NEES as of December 31, 1956, their relationships being indicated by indentation, the states of organization and operation, the nature of their business and the percentage of voting securities owned by system companies are shown in the following table:

	Percent of voting control	State of organization	State of operations	Nature of business
New England Electric System		Massachusetts		Holding company.
Amesbury Electric Light Co.[1]	99.71	do	Massachusetts	Electric.
Attleboro Electric Co	100.00	do	do	Do.
Bellows Falls Hydro-Electric Corp	100.00	New Hampshire, Vermont.		Inactive.
Central Massachusetts Gas Co	100.00	Massachusetts	Massachusetts	Gas.
Connecticut River Development Co	100.00	do	do	Owning Properties.
Essex County Electric Co	97.49	do	do	Electric.
Granite State Electric Co	100.00	New Hampshire	New Hampshire	Do.
Haverhill Electric Co.[1]	69.30	Massachusetts	Massachusetts	Do.
Lawrence Electric Co.[1]	90.70	do	do	Do.
Lawrence Gas Co	90.42	do	do	Gas.
The Lowell Electric Light Corp.[1]	61.18	do	do	Electric.
The Mystic Power Co	100.00	Connecticut	Connecticut	Do.
Mystic Valley Gas Co	99.41	Massachusetts	Massachusetts	Gas.
The Narragansett Co	100.00	Rhode Island		Inactive.
The Narragansett Electric Lighting Co.	99.98	do		Do.
The Narragansett Electric Co	100.00	do	Rhode Island	Electric, gas.
New England Power Co	96.86	Massachusetts	Massachusetts, New Hampshire, Vermont.	Electric, holding company.
Yankee Atomic Electric Co	30.00	do	Massachusetts	Electric.
New England Power Service Co	100.00	do		Service company.
Northampton Electric Lighting Co	100.00	do	Massachusetts	Electric.
Northampton Gas Light Co	100.00	do	do	Gas.
Northern Berkshire Electric Co	100.00	do	do	Electric.
North Shore Gas Co	97.07	do	do	Gas.
Norwood Gas Co	99.38	do	do	Do.
The Pequot Gas Co	100.00	Connecticut	Connecticut	Do.
Quincy Electric Co	100.00	Massachusetts	Massachusetts	Electric.
Southern Berkshire Power & Electric Co.	99.66	do	do	Do.
Suburban Electric Co	98.73	do	do	Do.
Wachusett Gas Co	100.00	do	do	Gas.
Weymouth Light and Power Co	99.70	do	do	Electric.
Worcester County Electric Co	99.31	do	do	Do.
Yellow Cab Co	100.00	Rhode Island		Inactive.

[1] These companies are in process of merging into Essex County Electric Co. pursuant to an order issued by this Commission on May 23, 1957 (Holding Company Act Release No. 13480).

The above tabulation of subsidiaries does not include Lynn Gas and Electric Company ("Lynn"), a Massachusetts corporation which is engaged in the electric and gas business in that State. NEES has, subsequent to December 31, 1956, acquired approximately 94 percent of the voting securities of Lynn pursuant to an order of this Commission issued April 22, 1957 (Holding Company Act Release No. 13456).

(b) As indicated above, New England Power Company ("Nepco") is an electric utility company and also a holding company by virtue of its ownership of 30 percent of the voting securities of Yankee Atomic Electric Company ("Yankee"), which was organized in 1954 for the purpose of constructing and operating an atomic nuclear power plant of approximately 134,000 Kw capacity. The plant is to be located in western Massachusetts, is scheduled for completion in 1960 and the output of the plant will be sold to 12 New England utility companies which are stockholders of Yankee. Nepco's acquisition of shares of Yankee's stock was effected pursuant to an order of this Commission dated December 18, 1956 (Holding Company Act Release No. 13339). Concurrently therewith Nepco's application for an exemption as a holding company was granted but Nepco as a subsidiary of NEES and Yankee as a subsidiary of Nepco remain subject to various provisions of the act as subsidiaries of a registered holding company.

4. (a) The consolidated gross operating revenues of the NEES system for the twelve months ended December 31, 1956 (excluding Lynn) amounted to $142,385,041, including $125,294,786 from the sale of electric energy, and $16,521,875 from the sale of gas. Other revenues, consisting principally of rentals, aggregated $568,380.

(b) As at December 31, 1956, the system's property account, excluding the properties of Lynn, was as follows:

Property, plant and equipment including intangibles:[1]	
Electric plant	$475,914,408
Gas plant	44,320,843
Construction work in progress	52,411,921
Other	1,195,096
Total	573,842,268
Less reserves for depreciation	102,296,664
Net property, plant and equipment, including intangibles	471,545,604

[1] $457,788,400 of the gross property account is stated at original cost.

II. 5. (a) The electric utility operations in the NEES system (including those of Lynn and reflecting the Essex merger) are conducted by 14 electric utility subsidiaries, two of which are also engaged in gas utility operations. These subsidiaries render retail electric service in 198 municipalities of which 146 are in Massachusetts, 27 in Rhode Island, 21 in New Hampshire and 4 in Connecticut. The total area served is in excess of 4500 square miles and the total population is about 2,350,000 persons. In addition, some of the subsidiary companies sell electric energy at wholesale for resale to various non-affiliated utilities and municipalities. Many of these municipalities purchase their entire electric energy requirements, and utilities serving a large portion of Vermont purchase substantial portions of their requirements from system companies.

(b) The electric energy requirements of the system companies (excluding Lynn) for 1956 were supplied largely by 12 steam-electric and 22 hydro-electric generating stations owned and operated by system companies, 76 percent being generated by system companies and 24 percent being purchased at a cost of $14,057,032. The principal source of purchased power from non-affiliated companies is Boston Edison Company which during 1956 delivered 746.5 million Kwh at an aggregate cost of $9,059,297. Of the total energy generated by the system companies, about 98 percent was produced by Nepco, The Narragansett Electric Company and Worcester County Electric Company.

6. The nature and locale of the electric operations of the subsidiaries in the NEES system are as follows:

(a) Nepco is an exempt holding company and an electric utility company engaged in the generation, purchase, transmission and sale of electric energy in wholesale quantities to associate and other electric utility companies doing a retail distribution business and to large industrial customers. Nepco operates in the States of Massachusetts, New Hampshire and Vermont but has no residential or commercial customers. During 1956 Nepco generated 2,299,222,565 Kwh of which about 53.6 percent was produced by steam-electric stations and 46.4 percent by hydro-electric stations. It purchased 1,751,867,850 Kwh of which about 48.6 percent was obtained from associates and 51.4 percent from non-affiliates, principally from Boston Edison Company and Niagara Mohawk Power Corporation. Nepco's gross plant at December 31, 1956 amounted to $190,818,000 and its gross operating revenues from the sale of electric energy, for the 12 months ended December 31, 1956, amounted to $49,762,800 of which $36,172,800 was derived from sales to affiliates, $7,190,000 from sales to non-system utilities and $6,400,000 from direct sales to large industrial users.

(b) Narragansett Electric Company ("Narragansett") owns and operates facilities for the generation, transmission, distribution and sale of electric energy and the production, transmission and distribution of gas. Its business is conducted in the larger part of Rhode Island where, in 1956, electric service was provided to 196,300 customers in 27 cities and towns, including Providence, within an area of about 870 square miles having an aggregate population of about 544,000 persons. Its electric energy requirements are supplied almost entirely by its own generating facilities and electric energy is sold for resale to three associate companies in the NEES system and to three non-affiliated utility companies. During 1956 Narragansett generated 1,881,215,278 Kwh and sold 686,887,630 to associate companies in the NEES system and 69,223,675 to non-affiliated companies. At December 31, 1956 Narragansett's gross electric utility plant amounted to $138,653,556 and for the calendar year ended that date its gross operating revenues from electric sales amounted to $34,633,174.

(c) Worcester County Electric Company ("Worcester") owns and operates facilities for the generation, transmission and distribution of electric energy to about 200,000 customers in 77 cities and towns located in central Massachusetts, covering an area of about 1900 square miles and having a population of about 544,000 persons. During 1956 Worcester generated about 22 percent of its electric energy requirements and purchased about 77 percent from Nepco and a minor amount from another associate (Lowell) and non-affiliates. Its gross operating revenues in the 12 months ending December 31, 1956, amounted to $31,441,512 and at that date the company had gross electric utility plant of $78,285,869.

(d) Suburban Electric Company ("Suburban") owns and operates facilities for the distribution of electric energy to about 79,300 customers in six suburban cities and towns north of Boston within an area of 29 square miles with an aggregate population of about 257,000 persons. In 1956 Suburban purchased substantially all of its electric requirements from Nepco and sold comparatively minor amounts of electricity to Boston Edison Company a non-affiliate. For the twelve months ended December 31, 1956, Suburban had gross operating revenues of $10,661,493 and at that date its gross electric utility plant amounted to $21,387,610.

(e) Essex County Electric Company ("Essex") will be the survivor by merger of five electric utility companies.[1] Taken together these five companies, in 1956, owned and operated facilities for the generation, transmission, distribution and sale of electric energy. In 1956 they provided electric service to 161,600 customers in 26 cities and towns in northeastern Massachusetts, within an area of 460 square miles, having an aggregate population of about 464,000 persons. The five constituent companies have their own generating plants and, during 1956, produced 75,473,813 Kwh. With the exception of Amesbury the entire net output of electric energy of these companies was sold to Nepco and substantially all their individual requirements were purchased from Nepco. The energy generated by Amesbury is used in its own operating area and additional requirements are purchased from one of the constituent companies (Haverhill). Amesbury also has an agreement with Nepco for standby and emergency service over a tie line with a non-affiliated company, i. e., Public Service Company of New Hampshire. During 1956 the five companies had combined gross operating revenues of $27,400,000. Their combined gross fixed property, at December 31, 1956, amounted to $60,198,060.

(f) Attleboro Electric Company ("Attleboro") owns and operates facilities for the distribution of electric energy in Attleboro, Masachusetts and vicinity. During 1956 the company purchased approximately 97 percent of its energy requirements from Nepco, less than 3 percent from Narragansett, and a minor amount from non-affiliates. During the calendar year 1956, Attleboro served an average of 14,689 customers with electricity and derived gross operating revenues of $2,552,416 from such service. The company's gross electric utility plant at December 31, 1956, amounted to $4,792,263.

(g) Granite State Electric Company ("Granite") owns and operates facilities for the production, transmission and distribution of electric energy in western New Hampshire. During 1956, it produced approximately 13.1 percent of its energy requirements, and purchased 20.2 percent of its energy from Lawrence and 66.7 percent from Nepco. Granite served an average of 12,062 customers during the year. Its gross operating revenues for the twelve months ended December 31, 1956, amounted to $1,611,834 and gross electric utility plant at that date totaled $4,459,996.

(h) Lynn Gas and Electric Company is a gas and electric utility providing services in the northeastern portion of Massachusetts. It also sells electric and gas appliances. In 1956 electric service at retail was provided to about 47,000 customers in four communities. Lynn also supplies at wholesale about 95 percent of the electricity requirements of the town of Marblehead. During 1956 Lynn generated approximately 86 percent of its electric energy requirements, the balance being purchased from Nepco. The area served with electricity lies between the areas served by two associate electric utility companies in the NEES system. The electric property of Lynn at December 31, 1956 amounted to $19,303,619 and its total electric operating revenues for the twelve months ended December 31, 1956, amounted to $6,309,564.

(i) The Mystic Power Company ("Mystic Power") owns and operates facilities for the transmission and distribution of electric energy to about 7,200 customers in Stonington and Groton, Connecticut. The company purchases all of its energy requirements from Narragansett. Gross electric utility plant at December 31, 1956, amounted to $1,889,296 and gross operating revenues for the twelve months then ended aggregated $1,057,059.

[1] Essex County Electric Company, Amesbury Electric Light Company, Haverhill Electric Company, Lawrence Electric Company and The Lowell Electric Light Corporation. Upon consummation of the merger, it is expected that Essex will change its name to Merrimack-Essex Electric Company.

(j) Northampton Electric Lighting Company ("Northampton") owns and operates facilities for the transmission and distribution of electric energy in Northampton, Massachusetts and vicinity. The company purchases substantially all of its energy requirements from Nepco. During the calendar year 1956, the company provided electric service to an average of 9,283 customers and derived gross operating revenues of $1,520,944. As at December 31, 1956, Northampton's gross electric utility plant amounted to $2,312,741.

(k) Northern Berkshire Electric Company ("Northern Berkshire") owns and operates facilities for the transmission and distribution of electric energy in Adams and North Adams, Massachusetts and vicinity. During 1956 the company purchased over 99 percent of its energy requirements from Nepco, served an average of 16,126 customers and derived gross operating revenues of $2,602,381. As at December 31, 1956, the company's gross electric utility plant amounted to $4,427,617.

(l) Quincy Electric Company ("Quincy") owns and operates facilities for the distribution of electric energy in Quincy, Massachusetts. During 1956, the company purchased its entire energy requirements from Boston Edison Company, a non-affiliate and, in turn, provided Weymouth Light and Power Company, an associate, with substantially all of its energy requirements. During 1956 Quincy served an average of 28,317 customers and derived gross operating revenues of $5,737,262. As at December 31, 1956, Quincy's gross electric utility plant amounted to $6,374,791.

(m) Southern Berkshire Power & Electric Company ("Southern Berkshire") owns and operates facilities for the production, transmission and distribution of electric energy in southwestern Massachusetts. During the year 1956, the company served an average of 7,775 customers and derived $1,184,461 in gross operating revenues. The company produced less than 10 percent of its energy requirements and purchased substantially all of the balance from Nepco. As at December 31, 1956, Southern Berkshire had gross electric utility plant amounting to $3,386,490.

(n) Weymouth Light and Power Company ("Weymouth") owns and operates facilities for the production, transmission and distribution of electric energy in Hingham, Randolph and Weymouth, Massachusetts. The company purchases substantially all of its energy requirements from Quincy. During the calendar year 1956, the company served an average of 19,988 customers, and derived gross operating revenues of $3,158,735. Its gross electric utility plant at December 31, 1956, amounted to $6,565,775.

III. 7. (a) The gas business of the NEES system is conducted by eight gas utility subsidiaries and two combination gas and electric utility subsidiaries (Lynn and Narragansett). As of December 31, 1956, the gas plant of these ten subsidiaries amounted to $52,462,139 and the consolidated gross operating revenues from the sale of gas, for the twelve months period ending December 31, 1956, amounted to $19,667,944. In general, the gas operations of these subsidiaries are carried on in parts of the same, or adjacent territory to that of the retail electric operations in the NEES system. In 1956 gas service was provided in 52 municipalities, of which 48 were in Massachusetts, 3 in Rhode Island, and 1 in Connecticut. The total area served with gas is in excess of 700 square miles having a total population of about 1,070,000 persons. During 1956 an average of about 240,000 customers were served over approximately 2,300 miles of gas mains.

(b) Natural gas is distributed by the gas subsidiaries (including Lynn) with manufactured gas used for peak shaving and standby purposes. The natural gas is purchased from two non-affiliated natural gas pipe line companies, i. e., Tennessee Gas Transmission Company ("Tennessee") and Algonquin Gas Transmission Company ("Algonquin"). Orders of the Federal Power Commission authorize daily deliveries of natural gas up to 75,695 Mcf by Tennessee and up to 4,450 Mcf by Algonquin. The manufactured gas facilities of the subsidiaries of NEES, available for peak shaving and standby purposes have a total rated capacity of 50,800 Mcf per day. Storage holder capacity totaled 23,977 Mcf.

(c) During 1952 NEES established an independent gas division to provide the Massachusetts gas subsidiaries with separate management and sales personnel. Earnings of these properties in 1956 contributed $1,614,516 to consolidated net income as compared with $255,504 in 1951. Sales of appliances also increased with total appliance sales by this division, in 1956, aggregating $2,167,000 including about 6,000 heating installations. This division also has installed more than 10,700 automatic water heaters under a rental program started in January 1955.

8. A summary description of the electric business of the two combination gas and electric utility companies, i. e., Narragansett and Lynn has been set forth in subparagraphs (b) and (h) of paragraph 6 above. The gas business of these two subsidiaries and the other eight gas utility companies are briefly described as follows:

(a) Lynn owns and operates facilities for the production, transmission and distribution of gas. It purchases natural gas from Tennessee and distributes such gas at retail to about 40,000 customers in communities supplied by Lynn with electric service in northeastern Massachusetts and, in addition, in Lynnfield, Marblehead and small areas of Peabody and Revere. Gas appliances are also sold by Lynn. Lynn's gas properties consist of a manufactured gas plant and two storage holders to supplement the natural gas supply and 357 miles of gas mains. At December 31, 1956, its gas properties amounted to $8,141,296 and gross operating revenues for the twelve months ended December 31, 1956, from the sale of gas amounted to $3,159,628.

(b) Narragansett owns and operates facilities for the production, transmission and distribution of gas in Warren, Bristol and Westerly, Rhode Island to about 6,700 customers. It purchases more than 99 percent of its gas requirements from Algonquin. In addition to the gas sold to general customers, Narragansett has a contractual arrangement to supply standby service to its associate gas utility The Pequot Gas Company. At December 31, 1956, Narragansett's gas properties amounted to $1,975,989 and its gross operating revenues derived from the sale of gas during the calendar year 1956 amounted to $446,553.

(c) Central Massachusetts Gas Company ("Central Massachusetts") owns and operates facilities for the transmission and distribution of natural gas to about 9,500 customers in 10 communities and surrounding area in south central Massachusetts. The company purchases all of its gas requirements from Tennessee. As at December 31, 1956, its gross gas utility plant amounted to $2,104,640 and gross operating revenues for the twelve months then ended aggregated $974,961.

(d) Lawrence Gas Company ("Lawrence") owns and operates facilities for the production, transmission and distribution of gas in Lawrence, Massachusetts and three nearby communities in the northeastern part of the State. The company serves approximately 33,000 customers. During the year 1956, Lawrence produced less than 1 percent of its gas requirements and purchased the remainder from Tennessee. The company's plant account totalled $5,238,030 at December 31, 1956, and operating revenues aggregated $2,480,960 for the twelve months ended that date.

(e) Mystic Valley Gas Company ("Mystic Valley") owns and operates facilities for the production, transmission and distribution of gas to 16 communities in eastern Massachusetts, including Arlington, Everett, Malden and Medford. During the twelve months ended December 31, 1956, the company served approximately 98,000 customers and derived $8,136,035 in gross operating revenues from such operations. Mystic Valley produced less than 1 percent of its gas requirements, purchased a minor amount of gas from a nearby non-affiliate, and obtained the balance of its requirements from Tennessee. The company's property account amounted to $21,967,385 at December 31, 1956.

(f) Northampton Gas Light Company ("Northampton") owns and operates facilities for the production, transmission and distribution of gas to approximately 8,000 customers in Northampton and Easthampton, Massachusetts. Gross operating revenues during the year 1956 amounted to $675,322. Northampton produced less than 1 percent of its gas requirements and purchased the balance from Tennessee. The company's plant account amounted to $1,749,615 at December 31, 1956.

(g) North Shore Gas Company ("North Shore") owns and operates facilities for the production, transmission and distribution of gas to approximately 33,000 customers in six communities located in northeastern Massachusetts, including Beverly, Gloucester and Salem. The company produces less than 1 percent of its gas requirements and purchases the remainder from Tennessee.

Gross operating revenues for the twelve months ended December 31, 1956, aggregated $2,900,012 and gas utility plant at that date totalled $9,023,246.

(h) Norwood Gas Company ("Norwood") owns and operates facilities for the distribution of natural gas to about 4,200 customers in Norwood, Massachusetts. The company purchases its entire supply of natural gas from Algonquin. Its gross operating revenues for the twelve months ended December 31, 1956, amounted to $381,993 and gas utility plant at that date aggregated $953,213.

(i) The Pequot Gas Company ("Pequot") owns and operates facilities for the transmission and distribution of gas to approximately 1,200 customers in Stonington, Connecticut. Pequot purchased its entire supply of natural gas from Algonquin during the calendar year 1956 and paid Narragansett a charge for the transportation of gas and a demand charge for manufactured gas, although no manufactured gas was received into the system during the year. The company's gross operating revenues for the twelve months ended December 31, 1956, aggregated $101,860 and its total utility plant account at that date amounted to $204,383.

(j) Wachusett Gas Company ("Wachusett") owns and operates facilities for the production, transmission and distribution of gas in north central Massachusetts. During 1956, the company produced less than 1 percent of its gas requirements and purchased the balance from Tennessee. Gas was sold to approximately 8,100 customers from which the company derived revenues of $682,105. Wachusett's total utility plant account at December 31, 1956 amounted to $1,551,146.

IV. 9. The Division avers that the foregoing allegations, and the facts otherwise disclosed in the course of its examination of the NEES system, indicate or tend to indicate that:

(a) The holding company system of NEES is not confined in its operations to those of a single integrated public-utility system, and to such other businesses as are reasonable incidental, or economically necessary or appropriate to the operations of such integrated public-utility system;

(b) The various gas utility assets and the electric utility assets owned or controlled, directly or indirectly, by NEES and other respondents cannot continue to be controlled by NEES under the standards of Section 11 (b) (1), particularly clauses (A), (B) and (C) thereof; and

(c) The various businesses of some of the subsidiaries of NEES, other than the business of a public-utility company as such, may not be retainable as reasonably incidental or economically necessary or appropriate to the operations of either the electric or gas public-utility systems.

V. It appearing to the Commission, on the basis of the above allegations of the Division of Corporate Regulation, that a proceeding should be instituted under section 11 (b) (1) of the act with respect to the New England Electric System holding company system:

It is ordered, That proceedings be and the same hereby are instituted under section 11 (b) (1) of the act with respect to the New England Electric System and each of its subsidiary companies hereinbefore named, all of which are made respondents herein.

It is further ordered, Pursuant to the applicable provisions of the act, that a hearing be held at the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., on November 12, 1957, at 10:30 a. m. On such day the hearing room clerk in Room 193 will advise as to the room where such hearing will be held. At such time respondents and any other interested persons will be heard with respect to the matters and questions hereinafter set forth.

It is further ordered, That such respondents shall file with the Secretary of the Commission on or before September 30, 1957, their joint or several answers in the form prescribed by Rule U-25 under the act admitting, denying, or otherwise explaining their respective positions as to each of the allegations of Parts I, II, III and IV hereof. The answer should state which of the properties and facilities of the New England Electric System holding company system constitutes the retainable "single integrated public utility system". Any such answer may include a statement of the claim of the respondents, or any of them, as to (a) the action, if any, which is necessary and should be required to be taken by any of the respondents (including the divestment of control, securities or other assets), to limit the operations of the system to a single integrated public-utility system; (b) the extent to which the system should be permitted to continue to control, in addition to its claimed "single integrated public utility system", one or more additional integrated public-utility systems as may meet the requirements of Clauses (A), (B) and (C) of section 11 (b) (1) of the act; and (c) the extent to which any of said respondents should be permitted to own, operate or control any business (other than the business of a public-utility company as such) as reasonably incidental or economically necessary or appropriate to the operations of such integrated public-utility system or systems. Any such answer may, if such respondents so desire, state that they propose and are prepared to take such action as will cause them to comply with section 11 (b) (1) within the meaning of the act, together with a description of such action and the time within which they propose to take action.

The Division of Corporate Regulation having advised the Commission that, upon the basis of its preliminary examination of the New England Electric System holding company system, the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(a) Whether the electric utility assets of the New England Electric System holding company system constitute a single integrated electric utility system or more than one such system;

(b) Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

(c) The nature, extent and location of the "single integrated public-utility system" of the New England Electric System holding company system;

(d) Whether, in addition to the New England Electric System holding company system's "single integrated public-utility system," any of its additional electric or gas utility systems may be retained under common control under the provisions of section 11 (b) (1) of the act, specifically Clauses (A), (B) and (C) thereof;

(e) Whether any of the non-utility businesses conducted by the New England Electric System holding company system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

(f) What action is necessary to be taken by the New England Electric System holding company system to limit the operations of the system to those of a single integrated public-utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of section 11 (b) (1) of the act;

It is further ordered, That at the aforesaid hearing, attention be given to the foregoing matters and questions.

It is further ordered, That William W. Swift or any other hearing officer or hearing officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The hearing officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

It is further ordered, That jurisdiction be, and hereby is, reserved to separate, either in whole or in part, or for disposition in whole or in part, any of the issues or questions which may arise in these proceedings, or to consolidate these proceedings, or any portion thereof, with any proceedings which may be instituted subsequently under other provisions of said act with respect to New England Electric System and its subsidiaries, and to take such other action as may appear conducive to an orderly, prompt and economic disposition of the matters involved.

It is further ordered, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, not later than five days prior to the date hereinbefore fixed as the date for said hearing, his request or application therefor, as prescribed by Rule XVII of the rules of practice of the Commission. Such request shall set forth the nature of the applicant's interest in the proceedings, his reasons for

requesting to be heard or to intervene, which of the allegations and issues, as hereinbefore set forth, applicant proposes to controvert, together with a statement of any additional issues which the applicant proposes to raise with respect to the proceedings herein instituted.

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this Notice of and Order for Hearing by registered mail not less than 30 days prior to the date fixed therefor to each of the respondent companies, the Federal Power Commission; the Connecticut Public Utilities Commission; the Department of Public Utilities of Massachusetts; the Public Utilities Commission of New Hampshire; the Public Utility Administrator; Department of Business Regulation of the State of Rhode Island; and the Public Service Commission of Vermont; and that notice of said hearing is hereby given to the aforesaid and to all States, municipalities, and political subdivisions of States within which are located any of the physical assets of the respondent companies, to all State commissions, State security commissions, and all agencies, authorities or instrumentalities of any State, municipality, or other political subdivision having jurisdiction over any of the respondent companies or any of the business affairs or operations of any of them, and to all other interested persons, such notice to be given by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the act; and by publication of this notice and order in the FEDERAL REGISTER not later than 30 days prior to the date hereinbefore fixed as the date of hearing.

By the Commission.

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

[F. R. Doc. 57-6554; Filed, Aug. 9, 1957; 8:47 a. m.]

[File No. 70-3606]

UNITED FUEL GAS CO. ET AL.

NOTICE OF PROPOSED TRANSFER BY PUBLIC UTILITY SUBSIDIARY OF ITS NATURAL GAS DISTRIBUTION FACILITIES TO ASSOCIATE COMPANY AS STEP IN SEPARATION OF SYSTEM'S DISTRIBUTION FACILITIES FROM ITS TRANSMISSION FACILITIES

AUGUST 5, 1957.

In the matter of United Fuel Gas Company, Central Kentucky Natural Gas Company, the Columbia Gas System, Inc., File No. 70-3606.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and two wholly-owned subsidiaries, United Fuel Gas Company ("United") and Central Kentucky Natural Gas Company ("Central"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (b), 9, 10, 12 (f), and 12 (g) thereof and Rule U-43 thereunder as applicable to the proposed transactions, which are summarized as follows:

Columbia and its subsidiaries are engaged in a program designed, among other things, to minimize the problems of rate regulation by realigning the System properties in such manner that all production, storage, and transmission properties used in wholesale operations and subject to the jurisdiction of the Federal Power Commission will eventually be owned by a single operating company, and the retail distribution facilities in each State will be owned by a single company subject to the jurisdiction of the appropriate State commission. The instant filing covers the fifth step in such program.[1]

United, a West Virginia corporation, is engaged in producing, purchasing, transporting, storing and distributing natural gas in the States of West Virginia, Ohio, and Kentucky; and it has approximately 21,800 retail gas customers in 25 communities located in 7 Kentucky counties. Central, a Kentucky corporation, is engaged in purchasing and distributing natural gas at retail in the State of Kentucky.

United proposes to transfer to Central all the properties which United uses in connection with the retail distribution of natural gas in Kentucky, together with accounts receivable and other assets related to such retail distribution operations. Central will pay in cash the net book value of the assets transferred to it, estimated as follows:

Utility properties (at original cost) less related reserves	$2,496,494
Materials and supplies, accounts receivable, etc., less related reserves	220,253

In order to obtain the required funds, Central proposes to issue and sell to Columbia, at face value, Installment Promissory Notes and Common Stock (par value $25 per share) approximately equal to the purchase price. The Notes and Stock will be issued in such amounts as to produce a capitalization ratio on Central's books of approximately 50 percent long-term debt and 50 percent common stock equity. A pro forma balance sheet contained in the application indicates that Central will issue $1,583,000 of Notes and $1,133,800 of Stock.

The foregoing figures are subject to adjustments to reflect changes as of the closing date.

The Notes will be unsecured and will be dated as of the date of issue. The principal amount will be due in 25 equal annual installments, on February 15 of each of the years 1959 to 1983 inclusive. Interest will be due semi-annually on February 15 and August 15 on the unpaid principal amount thereof at the rate of 3.4 percent per annum (being the weighted average interest rate borne by United Fuel's long-term debt as of August 31, 1956, rounded off to the nearest 1/10 of 1 percent.

The Public Service Commission of Kentucky has authorized United to abandon and sell, and Central to acquire and operate the facilities involved, and said Commission has also approved the issuance by Central of Notes and Stock as proposed for the purpose of obtaining the required cash. United must obtain a certificate of convenience and necessity from the Federal Power Commission to sell natural gas to Central for resale through the retail distribution properties being transferred. It is stated that a copy of such certificate, if issued, will be filed by amendment.

A statement of the fees and expenses to be paid or incurred in connection with the proposed transactions will also be filed by amendment.

Notice is further given that any interested person may, not later than August 21, 1957 at 5:30 p. m., request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

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

[F. R. Doc. 57-6553; Filed, Aug. 9, 1957; 8:47 a. m.]

[1] For prior steps see Holding Company Act Release Nos. 13299, 13302, 13353 and 13435.

[File No. 812-1094]

HORACE MANN FUND, INC.

NOTICE OF FILING FOR ORDER PERMITTING REDUCED OFFERING PRICE ON PURCHASES OF COMPANY SHARES BY OFFICERS, DIRECTORS AND EMPLOYEES OF COMPANY, PRINCIPAL UNDERWRITER AND INVESTMENT ADVISER

AUGUST 5, 1957.

Notice is hereby given that Horace Mann Fund, Inc. ("Horace Mann"), a registered open-end diversified investment company, has filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 22 (d) of the act the offering of its shares with no sales commission to officers, directors and employees of Horace Mann, its principal underwriter and its investment adviser.

The public offering price of Horace Mann's shares is expected to be stated in its prospectus as the net asset value per share plus a sales commission of 7½ percent. It is recited in the application that Horace Mann has adopted a plan, subject to appropriate action by this Commission, whereby its shares may be offered by its principal underwriter to officers, directors, and full-time employ-

ees of Horace Mann and of Horace Mann Investors, Inc., its principal underwriter and investment adviser, at net asset value with no sales commission.

Section 22 (d) of the act, with certain exceptions not pertinent here, prohibits a principal underwriter of a registered investment company from selling the shares of such investment company to any person except at a current public offering price described in the prospectus. Since the plan would be in contravention of the provisions of section 22 (d) of the act, inasmuch as it contemplates sales of shares of Horace Mann at prices other than the public offering price thereof described in the prospectus, an order pursuant to section 6 (c) of the act exempting such sales is requested by the applicant.

Section 6 (c) of the act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Applicant represents that the purpose of the plan is to improve employee-employer relations, to strengthen employee morale and to encourage thrift among employees of Horace Mann and its underwriter-advisor. It is the applicant's belief that such purpose may be accomplished without detriment to other shareholders of Horace Mann or to the general public.

Notice is further given that any interested person may, not later than August 20, 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. 57-6552; Filed, Aug. 9, 1957; 8:47 a. m.]

[24W-1912]

SIMPLEX PRECAST INDUSTRIES, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

AUGUST 6, 1957.

I. Simplex Precast Industries, Inc. (Simplex), a Delaware corporation, 54 East Penn Street, Norristown, Pennsylvania, filed with the Commission on March 9, 1956, a notification and an offering circular, and subsequently filed amendments thereto, relating to an offering of 300,000 shares of its 1-cent par value common stock at $1.00 per share for an aggregate of $300,000.00, 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 thereunder; and

II. The Commission has reasonable cause to believe that the terms and conditions of Regulation A have not been complied with in that Simplex has failed to file reports on Form 2-A as required by Rule 224;

III. *It is therefore 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 hearing; that, within 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. 57-6555; Filed, Aug. 9, 1957; 8:47 a. m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-VII-8]

MANAGER, DISASTER FIELD OFFICE, JOLIET, ILL.

DELEGATION OF AUTHORITY RELATING TO FINANCIAL ASSISTANCE FUNCTIONS

I. Pursuant to the authority delegated to the Regional Director by Delegation No. 30 (Revision 4), dated July 1, 1957, there is hereby delegated to the Manager of the Disaster Loan Office, Joliet, Illinois, the following authority:

A. *General.* To carry out all of the functions listed for the Disaster Field Offices in Section 202 of SBA-100, Administrative Manual.

B. *Specific.* To take the following actions in accordance with the limitations of such delegations as set forth in SBA-500, Financial Assistance Manual:

1. To approve or decline disaster loans in an amount not exceeding $20,000.

C. *Correspondence.* To sign all nonpolicy making correspondence, except Congressional correspondence, relating to the functions of the Disaster Loan Office.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Manager of the Disaster Loan Office.

Effective date: July 25, 1957.

WILLIAM H. KELLEY,
Regional Director,
Chicago Regional Office.

[F. R. Doc. 57-6556; Filed, Aug. 9, 1957; 8:47 a. m.]

[Delegation of Authority 30-VII-1]

CHIEF, FINANCIAL ASSISTANCE DIVISION

DELEGATION OF AUTHORITY RELATING TO FINANCIAL ASSISTANCE FUNCTIONS

I. Pursuant to the authority vested in the Regional Director by Delegation No. 30 (Revision 4), dated July 1, 1957, there is hereby delegated to the Chief, Financial Assistance Division the following authority:

A. *General.* To carry out all of the financial assistance functions listed in Section 202 of SBA-100, Administrative Manual.

B. *Specific.* To take the following actions in accordance with the limitations of such delegations as set forth in SBA-500, Financial Assistance Manual:

1. To approve the following types of loans:

(a) Direct business loans in an amount not exceeding $20,000;

(b) Participation business loans in an amount not exceeding $100,000.

2. To approve disaster loans in an amount not exceeding $20,000;

3. To decline disaster loans;

4. To approve or decline Limited Loan Participation loans;

5. To enter into Disaster Participation Agreements with banks.

6. To execute loan authorizations for Washington approved loans and for loans approved under delegated authority, said execution to read as follows:

WENDELL B. BARNES,
Administrator.

By ———————.
Chief,
Financial Assistance Division.

7. To modify or amend authorizations for business or disaster loans approved by the Administrator, the Deputy Administrator for Financial Assistance, the Director, Office of Financial Assistance, or the Chairman, Loan Review Board, by the issuance of Certificates of Modification, and to modify or amend authorizations for loans approved under delegated authority in any manner consistent with the original authority to approve loans.

8. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

9. To cancel wholly or in part undisbursed balances of partially disbursed loans and deferred participation agreements, where the Administration has not purchased its participation.

10. To approve, after disbursement or partial disbursement, the salary of new

employees, not to exceed $10,000 per annum.

11. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents and certify to the participating bank that such documents are in compliance with the participation authorization.

12. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing, administration and liquidation of any disaster loan including, without limiting the generality of the foregoing, all powers, terms, conditions and provisions as authorized herein for other loans. Said powers, terms, conditions and provisions shall apply to all documents, agreements or other instruments heretofore or hereafter executed in connection with any loan included in the above functions where such documents, agreements or other instruments are now, or shall be hereafter, in the name of the Reconstruction Finance Corporation or the Small Business Administration.

13. To take the following actions in the administration, collection and liquidation of business or disaster loans:

(a) Approve or reject substitutions of accounts receivable and inventories.

b. Release, or consent to the release of inventories, accounts receivable or cash collateral, real or personal property, offered as collateral on loan, including the release of all collateral when loan is paid in full.

c. Release dividends on life insurance policies held as collateral for loans, approve the application of same against premiums due; release or consent to the release on participation loans, of insurance funds covering loss or damage to property securing the loan and expired hazard insurance policies.

d. Approve the sale of real or personal property and the exchange of equipment held at collateral on loans.

e. Defer until final maturity date payments on principal falling due prior to or within thirty days after initial disbursement and provide for the coincidence of principal and interest payments.

f. Designate proxies to vote at stockholders' meeting on stock held as collateral, and determine how such shares are to be voted.

g. Reinstate terms of payment provided in the Borrower's note upon cancellation of authority to foreclose, termination of litigation, or correction of any other situation which caused the loan to be classified as a problem loan.

h. Effect the purchase of the Administration's agreed portion of a participation loan upon the request of the participating institution, consent to the sale to another institution of the SBA portion of a participation loan, and to cancel any deferred participation agreement upon request of the institution.

14. To extend, or consent to the extension of, the maturity date or time of payment, to change, or consent to the change of, the rate of interest, and otherwise alter or modify, or consent to the alteration or modification of, any note, bond, mortgage or other evidence of indebtedness, and any contract for the sale or lease of real or personal property.

15. To accept and join with others in the acceptance of resignations of trustees under declarations of trust, trust indentures, deeds of trust and other trust instruments and agreements under which the Small Business Administration or its Administrator is a beneficiary and where the Small Business Administration or its Administrator now or hereafter is a holder of any note, notes, bond, bonds, instrument or instruments issued pursuant thereto and secured thereby.

16. To remove and join with others in the removal of any trustee or trustees under any declarations of trust, trust indentures, deeds of trust and other trust instruments and agreements under which the Small Business Administration or its Administrator now or hereafter is a beneficiary and where the Small Business Administration or its Administrator now or hereafter is the holder of any note, notes, bond, bonds, instrument or instruments issued pursuant thereto and secured thereby.

17. To select and designate persons or corporations as original, substitute or successor trustees under declaration of trust, trust indentures, deeds of trust or other trust instruments or agreements under which the Small Business Administration or its Administrator now or hereafter is a beneficiary and where the Small Business Administration or its Administrator now or hereafter is the holder of any note, bond or instrument issued pursuant thereto and secured thereby to accept on behalf of Small Business Administration or its Administrator beneficial interests in real or personal property.

18. To appoint, consent to or approve of the appointment and join with others in the appointment, consent or approval of appointment of substitute and successor trustee or trustees under any declarations of trust, trust indentures, deeds of trust and other trust instruments and agreements under which the Small Business Administration or its Administrator now or hereafter is a beneficiary and where the Small Business Administration or its Administrator now or hereafter is the holder of any note, notes, bond, bonds, instrument or instruments issued pursuant thereto and secured thereby.

19. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the granted powers, including, but without limiting the generality of the foregoing, the execution and delivery of quit claim, bargain and sale or special warranty deeds, leases, subleases, assignments, subordinations, satisfaction pieces, affidavits, and such other documents as may be appropriate or necessary to effectuate the foregoing, and ratifying and confirming all that said Regional Director shall lawfully do or cause to be done by virtue hereof.

20. To take peaceable custody of collateral, as mortgagee in posession thereof or otherwise, whenever such action becomes necessary to protect the interests of or a loan made by SBA; to take all steps necessary for the preservation and protection of the property, pending foreclosure of the lien and sale of the collateral; and, to obligate the Administration in an amount not in excess of a total of $1,000 for any one loan, for those expenditures as may be required to accomplish these purposes.

21. To enter into written arrangements with custodians or caretakers of collateral covering their services, which shall not have the effect of making such persons employees of SBA but shall be limited to their temporary services for the specific purpose involved.

22. To enter into written arrangements with owners of premises, when it is necessary to use a building not part of the loan collateral for the storage of chattels pending foreclosure and sale, for a period of not more than 90 days, including a period of 10 days after the date of sale of the collateral to permit orderly removal of the property from the premises.

23. To post indemnity or other bonds in proceedings in cases where such undertakings are required by State law.

24. To foreclose, by summary foreclosure proceedings where State law permits and in accordance with such State laws, in whole or in part, any chattel mortgage, real estate mortgage, deed of trust, security deed or collateral whatsoever kind or nature, securing any note, bond or other evidence of indebtedness now held or hereafter acquired by the Small Business Administration or its Administrator as pledgee, owner or otherwise, and to exercise any right or authority which the Small Business Administration or its Administrator has or may have pursuant to the terms of such security instrument or evidence of indebtedness, and to assign all the right, title and interest of the Small Business Administration or its Administrator in and to any terms of sale or bid made at any such foreclosure sale.

C. *Correspondence.* To sign all nonpolicy making correspondence, except Congressional correspondence, relating to the financial assistance functions.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Chief, Financial Assistance Division.

IV. All previous authority delegated by the Regional Director to the Chief, Financial Assistance Division is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Effective date: July 25, 1957.

WILLIAM H. KELLEY,
Regional Director,
Chicago Regional Office.

[F. R. Doc. 57-6557; Filed, Aug. 9, 1957; 8:48 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

CERTAIN OFFICIALS

DELEGATION OF AUTHORITY WITH RESPECT TO PUBLICATION IN NEWSPAPERS OF ADVERTISEMENTS, NOTICES, OR PROPOSALS

1. The Director, General Services Branch, and the Assistant to the Director, General Services Branch, Office of the Administrator, each is hereby empowered to authorize the publication in newspapers of necessary advertisements, notices, or proposals.

2. Each Regional Administrator, Regional Engineer, and Director, Administrative Management, HHFA Regional Office; the Director for Northwest Operations, Region VI; and the Area Director, Puerto Rico Area Office, is hereby empowered to authorize the publication in newspapers of necessary advertisements, notices, or proposals with respect to program activities within his jurisdiction.

3. The exercise of the authority delegated herein is subject to the provisions of GAO General Regulations No. 109—Revised.

(Rev. Stat. § 3828, 44 U. S. C. 324; sec. 12 of Public Law 600, 79th Cong., 5 U. S. C. 22a)

Effective as of the 10th day of August 1957.

ALBERT M. COLE,
Housing and Home Finance Administrator.

[F. R. Doc. 57-6564; Filed, Aug. 9, 1957; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES, ATLANTIC AND GULF-SINGAPORE, MALAYA AND THAILAND CONFERENCE

NOTICE OF AGREEMENT FILED WITH THE BOARD FOR APPROVAL

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

Agreement No. 8240–1, between the member lines of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference, modifies the basic agreement of that conference (No. 8240), to provide (1) for an independent chairman and a secretary, their duties and the method of their selection; (2) that meetings of the conference shall be held at such times and places as shall be determined from time to time by the member lines; (3) that the annual conference expenses shall be borne by the member lines in equal shares, except that the first $12,500 shall be apportioned among the member lines on the basis of each member's sailings in the trade; and (4) that the chairman shall be designated as the authorized representative of each of the member lines to receive all official notices and communications pertaining to the conference agreement, and to furnish information relative to the activities of the member lines to the governmental agency charged with the administration of section 15 of the Shipping Act, 1916. Agreement No. 8240 presently provides for the designation of a chairman by the member lines from among their respective representatives, and for the designation of a secretary; that conference meetings shall be held in New York at such times as determined by the member lines; that the conferences expenses shall be borne in equal shares by the member lines; and that the secretary is the designated authorized representative of each of the member lines under the conference agreement.

Interested parties may inspect this agreement 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 agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: August 7, 1957.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-6562; Filed, Aug. 9, 1957; 8:48 a. m.]

MEMBER LINES, ATLANTIC AND GULF-INDONESIA CONFERENCE

NOTICE OF AGREEMENT FILED WITH THE BOARD FOR APPROVAL

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

Agreement No. 8080–2, between the member lines of the Atlantic and Gulf-Indonesia Conference, modifies the basic agreement of that conference (No. 8080, as amended), to provide (1) for an independent chairman and a secretary, their duties and the method of their selection; (2) that meetings of the conference shall be held at such times and places as shall be determined from time to time by the member lines; (3) that the annual conference expenses shall be borne by the member lines in equal shares, except that the first $12,500 shall be apportioned among the member lines on the basis of each member's sailings in the trade; and (4) that the chairman shall be designated as the authorized representative of each of the member lines to receive all official notices and communications pertaining to the conference agreement, and to furnish information relative to the activities of the member lines to the governmental agency charged with the administration of section 15 of the Shipping Act, 1916. Agreement No. 8080, as amended, presently provides for the designation of a chairman by the member lines from amongst their respective representatives, and for the designation of a secretary; that conference meetings shall be held in New York at such times as determined by the member lines; that the conference expenses shall be borne in equal shares by the member lines; and that the secretary is the designated authorized representative of each of the member lines under the conference agreement.

Interested parties may inspect this agreement 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 agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: August 7, 1957.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-6563; Filed, Aug. 9, 1957; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7132]

INTERNATIONAL FREIGHT FORWARDER INVESTIGATION

NOTICE 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 is assigned to be held on September 4, 1957, at 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., August 5, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-6570; Filed, Aug. 9, 1957; 8:49 a. m.]

[Docket No. 8681]

TRANS-ALASKAN AIRLINES, INC.; ENFORCEMENT CASE

FURTHER POSTPONEMENT OF HEARING

In the matter of the revocation of Interim Operating Authorization No. 42 issued to Trans-Alaskan Airlines, Inc.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, and regulations thereunder, that a hearing in the above-entitled matter heretofore assigned to be held on August 6, 1957, is hereby re-assigned to be held on August 13, 1957, at 10:00 a. m., e. d. s. t., in Room E–210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Edward T. Stodola.

Dated at Washington, D. C., August 6, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-6571; Filed, Aug. 9, 1957; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

AUGUST 1957 MONTHLY SALES LIST

Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F. R. 6669) and subject to the conditions stated therein, the commodities listed below are available for sale in the quantities stated and on the price basis set forth. The Commodity Credit Corporation will entertain offers from prospective buyers for the purchase of any such commodity.

Applicable interest rates on sales made in August under the Export Credit Sales Announcement GSM 1 are as follows:

For periods up to and including 6 months, 4⅛ percent per annum.

For periods over 6 months up to and including 18 months, 4⅝ percent per annum.

For periods over 18 months up to and including 36 months, 5⅛ percent per annum.

The Commodity Credit Corporation reserves the right, before making any sale, to define or limit export areas. Announcements containing the contractual terms and conditions of sale for the respective commodities will be furnished upon request. For ready reference a number of these announcements are identified by code number in the following list. Commodity Credit Corporation also reserves the right to amend, from time to time, any of its announcements, which amendments shall be applicable to and be made a part of the sales contracts thereafter entered into.

AUGUST 1957 MONTHLY SALES LIST

NOTICE TO BUYERS

On sales which the buyer is required to submit proof to CCC of exportation, the buyer (1) shall be regularly engaged in the business of buying or selling commodities and, for this purpose, shall maintain a bona fide business office in the United States, its territories, or possessions and therein have a person, principal or resident agent, upon whom service of judicial process may be had, and (2) shall submit a financial statement, bank advice, surety bond or other evidence of financial responsibility as may be required by CCC.

Commodity and approximate quantity available (subject to prior sale)	Sales price or method of sale
Dairy products	All sales are under LD-25, as amended. All sales are in carlots only. As many as 3 buyers may participate in purchasing a single carlot. (See amendment 3.) Domestic price: For unrestricted use price is "is store" [1] at storage locations of products. For restricted use price is on the basis of delivery f. o. b. cars at point of use named in offer. CCC will convert to "in store" price as provided in LD-25, as amended. Export prices are on the basis of delivery f. o. b. point of export. CCC will convert to "in store" price as provided in LD-25, as amended. Submission of offers: For products in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, submit offers to the Portland CSS Commodity Office. For products in other States and the District of Columbia, submit offers to the Cincinnati CSS Commodity Office.
Butter (as available)	Domestic, unrestricted use: 63.5 cents per pound, New York, New Jersey, Pennsylvania, New England and other States bordering the Atlantic Ocean and Gulf of Mexico. 62.75 cents per pound, Washington, Oregon, and California. All other States 62.5 cents per pound. Domestic, restricted use: For use as an extender for cocoa butter in the manufacture of chocolate, 39 cents per pound. Export, unrestricted use: 39 cents per pound.
Nonfat dry milk: spray roller—(as available).	Domestic, unrestricted use: Spray process, U. S. Extra Grade, in barrels and drums, 17 cents per pound; in bags, 16.15 cents per pound. Roller process, U. S. Extra Grade: in barrels and drums, 15 cents per pound; in bags, 14.15 cents per pound. Domestic, restricted use (animal and poultry feed): In barrels and drums, 11.5 cents per pound; in bags, 10.65 cents per pound. Export, unrestricted use: Spray process, U. S. Extra Grade: in barrels and drums, 9.9 cents per pound; in bags, 9.05 cents per pound.
Cheddar cheese, cheddars, flats, twins, and rindless blocks (standard moisture basis) 176 million pounds.	Domestic: 38 cents per pound, for New York, New Jersey, Pennsylvania, New England and other States bordering the Atlantic and Pacific Oceans and Gulf of Mexico. All other States 37 cents per pound. Export: 22 cents per pound. Cheese prices are subject to usual adjustments for moisture content.

See footnotes at end of table.

Commodity and approximate quantity available (subject to prior sale)	Sales price or method of sale
Cotton, Upland	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-5, as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcement CN-EX-2 (Revision 1) and NO-C-8, as amended, and Announcements CN-EX-4 and NO-C-9, as amended. The final opening of bids under the 1956-57 export program (CN-EX-2 and NO-C-8) is scheduled for Aug. 6 1957. All cotton purchased under the 1956-57 program must be exported prior to Aug. 16, 1957.
Cotton, Extra Long Staple	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of announcement NO-C-6, as amended. Catalogs for Upland and Extra Long Staple cotton showing quantities, qualities and locations may be obtained for a nominal fee from the New Orleans CSS Commodity Office.
Peanuts	Domestic (for crushing) or export: Competitive bid basis for limited quantities announced by Peanut Cooperative Associations under CCC Peanut Announcement 1, as amended. Available Dallas CSS Commodity Office.
Wool, shorn, approximately 20,000,000 pounds.	Domestic or export: Limited quantities (not more than 6¼ million pounds in August) on competitive bid each Tuesday under terms and conditions as announced. Additional quantities at prices basis exwarehouse where stored as determined by the Boston CSS Commodity Office, reflecting not less than 103 percent of the 1954 schedule of loan rates per pound plus an allowance for sales commission, Boston basis, adjusted for net freight on wool stored outside the Boston storage area.
Wheat, bulk	Domestic: Commercial wheat-producing area: Market price, basis in store,[2] but not less than the 1957 applicable loan rate, plus (1) 19 cents per bushel if received by truck, or (2) 14 cents per bushel if received by rail or barge. Examples of the foregoing minimum price per bushel (exrail or barge): Chicago, No. 1 RW, $2.46; Minneapolis, No. 1 DNS, $2.50; Kansas City, No. 1 HW, $2.46; Portland, No. 1 SW, $2.36. Noncommercial wheat-producing area: Market price, basis in store,[2] but not less than 133 percent of applicable 1957 county loan rate plus (1) 19 cents per bushel if received by truck or (2) 14 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Export (as wheat): Under Announcement GR-261 revised, as amended, for application to barter contracts and specially approved credit sales only, at prices determined daily, and under Announcement GR-212 revised, as amended, for specific offerings as announced. Disposals under special export program under Announcement GR-345.[3] Available Dallas, Chicago, Minneapolis, Kansas City, and Portland CSS Commodity Offices for domestic or export sale, except under GR-345 at Dallas and Chicago, and Portland when announced.
Corn, bulk	Domestic: Commercial corn-producing area: Market price, basis in store,[2] but not less than the 1956 applicable loan rate plus: (1) a markup of 33 cents per bushel for corn in storage at point of production, (2) a markup of 35 cents per bushel and the rail freight rate from point of production to the present point of storage for corn in storage at other than point of production. Examples of the foregoing minimum price per bushel for No. 3 yellow corn including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis respectively: Chicago, $2.01½; Minneapolis, $1.89¾. Noncommercial corn-producing area: Market price, basis in store,[2] but not less than 121 percent of the applicable 1956 loan rate plus markups as above. Available Chicago, Dallas, Kansas City, Minneapolis, and Portland CSS Commodity Offices. Nonstorable corn is also available at the above offices. Export. Competitive bid basis as announced by the Portland and Chicago CSS Commodity Offices.
Oats, bulk	Domestic: Market price, basis in store,[2] but not less than the 1957 applicable loan rate plus: (1) a markup of 8 cents per bushel for oats in storage at point of production, (2) a markup of 10 cents per bushel and the rail freight rate from point of production to the present point of storage for oats in storage at other than the point of production. Examples of the foregoing minimum price per bushel including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis respectively: Chicago, No. 3 oats or better, $0.77¾; Minneapolis, No. 3 oats or better, $0.71¾. Available Minneapolis, Chicago, Kansas City, Portland and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Chicago, Portland and Dallas CSS Commodity Offices.[3]

AUGUST 1957 MONTHLY SALES LIST—Continued

Commodity and approximate quantity available (subject to prior sale)	Sales price or method of sale
Barley, bulk	Domestic: Market price in store,[2] but not less than the 1957 applicable loan rate plus (1) 12 cents per bushel if received by truck, or (2) 9 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (ex rail or barge): Minneapolis No. 2 barley, $1.26. Available Minneapolis, Chicago, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Chicago, Dallas, and Portland CSS Commodity Offices.[3]
Rye, bulk	Domestic: Market price basis in store,[2] but not less than the 1957 applicable loan rate, plus (1) 15 cents per bushel if received by truck, or (2) 10 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (ex rail or barge): Minneapolis No. 2 or better, $1.47. Available Minneapolis, Chicago, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Chicago, Dallas, and Portland CSS Commodity Offices.[3]
Grain sorghums, bulk	Domestic: Market price, basis in store,[2] but not less than the 1957 applicable loan rate plus (1) 25 cents per hundredweight if received by truck, or (2) 16 cents per hundredweight if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per hundredweight (ex rail or barge): Kansas City No. 2 or better, $2.44. Available Dallas, Portland, and Kansas City CSS Commodity Offices. Export: Competitive bid as announced by Dallas CSS Commodity Office.[3]
Soybeans, bulk (as available)	Domestic (for crushing) or export: Market price basis in store but not less than the 1956 basis loan rate for No. 2 grade, basis point of production plus 9½ cents per bushel. Market discounts for quality factors will be applied to the basic price to determine the actual minimum sales prices. If delivery is outside the area of production, applicable freight and out-elevation charges at country loading point and in-elevation charges at subterminal or terminal storage point will be added to the above price. Available Chicago, Dallas, Kansas City, and Minneapolis CSS Commodity Offices.
Flaxseed, bulk (carlots as available).	Domestic (for crushing) or export: Market price basis in store but not less than the 1956 applicable loan rate at point of storage plus 6 cents. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (exrail or barge): Minneapolis, No. 1 Flax, $3.45; Duluth, No. 1 Flax, $3.45. Also LCL lots at best prices obtainable. Available Minneapolis CSS Commodity Office.
Rice, milled 1956 crop (as available).	Domestic, unrestricted use (1956 crop): Market price but not less than the equivalent 1956 loan rate for rough rice by varieties plus 5 percent, adjusted for milling, plus 60 cents per hundredweight. Example of minimum prices of milled rice per hundredweight, at mills:

	U. S. No. 3	U. S. No. 4	U. S. No. 5
Blue Bonnet	$10.93	$10.11	$9.21
Century Patna	10.31	9.56	8.73

Rice, rough	Export: Competitive bid under DL-MR-400/57 as announced by Dallas CSS Commodity Office. Special export: Competitive bid on "as is" basis, under DL-MR/53 as announced by Dallas CSS Commodity Office. Domestic, unrestricted use: Market price but not less than legal minimum price. Prices and quantities available by varieties may be obtained from Dallas CSS Commodity Office or from Portland CSS Commodity Office for Pearl and Calrose. Export: For export as milled rice. Competitive as announced by Portland CSS Commodity Office.

See footnotes at end of table.

AUGUST 1957 MONTHLY SALES LIST—Continued

Commodity and approximate quantity available (subject to prior sale)	Sales price or method of sale
Dry edible beans (bagged)	Prices for domestic sale are for U. S. No. 1 f. o. b. indicated points of production, amount of paid-in freight to be added as applicable. For other grades, adjust by market differentials. For other areas, adjust by the 1956 price support differential.
Red kidney beans (as available)	Domestic: Market price but not less than $9.27 per hundredweight California point of production, available Portland CSS Commodity Office. Export: Competitive bids as announced by Portland CSS Commodity Office.
Great northern beans (as available).	Domestic: Market price but not less than $7.39 per hundredweight Southern Idaho point of production, available Portland CSS Commodity Office. Export: Competitive bids as announced by Portland CSS Commodity Office.
Large lima beans (as available).	Domestic: Market price but not less than $10.97 per hundredweight California points of production, available Portland CSS Commodity Office. Export: Competitive bids as announced by Portland CSS Commodity Office.
Baby lima beans (as available).	Domestic: Market price but not less than $5.82 per hundredweight California points of production, available Portland CSS Commodity Office. Export: Competitive bids as announced by Portland CSS Commodity Office.
Small red beans (as available).	Domestic: Market price but not less than $7.88 per hundredweight Colorado points of production, available Portland and Kansas City CSS Commodity Offices. Export: Competitive bids as announced by Portland and Kansas City CSS Commodity Offices.
Pinto beans (as available)	Domestic or export: Market price but not less than $6.59 per hundredweight f.o.b. Washington points of production, available Portland CSS Commodity Office.
Pea beans (as available)	Domestic or export: Market price but not less than $8.17 per hundredweight f.o.b. Michigan points of production, available Chicago CSS Commodity Office.
Pink beans (as available)	Domestic: Market price but not less than $7.77 per hundredweight f.o.b. California and Washington points of production, available Portland CSS Commodity Office. Export: Competitive bids as announced by Portland CSS Commodity Office.
Small white beans (as available).	Domestic or export: Market price but not less than $7.72 per hundredweight f. o. b. Washington points of production, available Portland CSS Commodity Office.
Gum rosin	Demostic or export: Offer and acceptance basis, "as is", in galvanized metal drums (averaging 517# net) in the stated quantities and on the designated storage yards, subject to the prices, terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through the American Turpentine Farmers' Association Cooperative, Valdosta, Ga.
Gum turpentine	Domestic or export: Offer and acceptance basis, "as is", bulk in tanks in the stated quantities and in the designated storage tanks subject to the prices, terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through ATFA, Valdosta, Ga.

[1] At the processor's plant or warehouse but with any prepaid storage and out-handling charges for the benefit of the buyer.

[2] In those counties in which grain is stored in CCC bin sites, delivery will be made f. o. b. buyer's conveyance at bin site without additional cost; sales will also be made in store approved warehouses in such county and adjacent counties at the same price, provided the buyer makes arrangements with the warehousemen for storage documents.

[3] Sales of grains other than wheat made under Title I, P. L. 480, may be made on terms and conditions of GR-301 revised. Other commodities under the announcement indicated.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 407, 63 Stat. 1055; 7 U. S. C. 1427, sec. 208, 63 Stat 901)

Issued: August 6, 1957.

[SEAL]

WALTER C. BERGER,
Executive Vice-President,
Commodity Credit Corporation.

[F. R. Doc. 57-6573; Filed, Aug. 9, 1957; 8:50 a. m.]