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Washington, Wednesday, September 25, 1957

TITLE 3—THE PRESIDENT

PROCLAMATION 3202

VETERANS DAY, 1957

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the people of this Nation are grateful to the veterans of our Armed Forces who have faithfully discharged the duties of citizenship and nobly served in times of national peril; and

WHEREAS among the resources from which our country draws her strength we hold in high esteem the more than twenty-two million living veterans of our military, naval, and air services, and we treasure the freedom preserved for us by the sacrifice of many; and

WHEREAS the Congress by an Act approved June 1, 1954 (68 Stat. 168), expanded the significance of November 11, theretofore declared a legal holiday and observed as Armistice Day, by designating it as Veterans Day in honor of our veterans:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon our citizens to observe Monday, November 11, 1957, as Veterans Day, in tribute to those who have thus added strength to the Nation and in renewed dedication to their work, building peace with honor among all nations.

I also direct the appropriate officials of the Government to arrange for the display of the flag of the United States on all public buildings on Veterans Day.

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 21st day of September in the year of our Lord nineteen hundred and [SEAL] fifty-seven, and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-7944; Filed, Sept. 24, 1957; 12:08 p. m.]

NOTICE

Proclamation 3204, "Obstruction of Justice in the State of Arkansas"

and

Executive Order 10730, "Providing Assistance for the Removal of an Obstruction of Justice Within the State of Arkansas"

appear at the end of this issue.

PROCLAMATION 3203

COLUMBUS DAY, 1957

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Christopher Columbus, on his voyage of discovery, made known the existence of a new and wondrous land, with matchless opportunities for mankind; and

WHEREAS throughout the ensuing centuries the continents of the world have moved closer together in time and space, by means of modern communication and transportation, thus becoming ever more interdependent and aware of their critical need for a just and lasting peace; and

WHEREAS the imagination and daring of Christopher Columbus aroused the interest and enlisted the aid of many long ago, and continue to encourage all who believe in freedom and in the promise of distant horizons; and

WHEREAS, in commemoration of the life and work of Columbus, the Congress of the United States, by a joint resolution approved April 30, 1934 (48 Stat. 657), has authorized and requested the President to issue a proclamation designating October 12 of each year as Columbus Day:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do by this proclamation designate Saturday, the twelfth day of October, 1957, as Columbus Day; and I invite the people of this Nation to observe that day with appropriate ceremonies in commemoration of the four hundred and sixty-fifth anniversary of

(Continued on p. 7575)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

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

CODIFICATION GUIDE—Con.

the sighting of land by Columbus and his crew on October 12, 1492.

I also direct that the flag of the United States be displayed on all public buildings on that day in honor of Christopher Columbus.

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 21st day of September in the year of our Lord nineteen hundred [SEAL] and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-7943; Filed, Sept. 24, 1957; 12:08 p. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF COMMERCE

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (28) is added to § 6.312 as set out below.

§ 6.312 *Department of Commerce*—(a) *Office of the Secretary.* * * *

(28) Two Legislative Liaison Officers, Office of the General Counsel.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-7837; Filed, Sept. 24, 1957; 8:47 a. m.]

TITLE 7—AGRICULTURE

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

[Docket Nos. AO-182-A8, AO-23-A17]

PART 913—MILK IN GREATER KANSAS CITY MARKETING AREA

ORDER AMENDING ORDER REGULATING HANDLING

AUTHORITY: §§ 913.0 to 913.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Kansas City marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order

as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received from producers during such delivery period.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than October 1, 1957. Any delay beyond that date in the effective date of this order amending the order will impair the proper operation of the order and will threaten the orderly marketing of milk in the Greater Kansas City marketing area. The provisions of the said order are well known to handlers, the recommended decision having been issued by the Deputy Administrator, Agricultural Marketing Service, on August 14, 1957 (22 F. R. 6616), and the final decision having been issued by the Assistant Secretary of Agriculture on September 10, 1957. Therefore, reasonable time has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective October 1, 1957, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

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

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

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

(3) The issuance of this order, amending the order, is approved or favored by at least two-thirds of the producers who participated in a referendum and who, during the determined representative period (June 1957), were engaged in the production of milk for sale in the said marketing area.

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

DEFINITIONS

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

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

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

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

§ 913.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers as defined in § 913.7, which the Secretary determines after application by the association:

(a) Is qualified under the provisions of the act of Congress of February 8, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has its entire activities under the control of its members; and

(c) Has and is exercising full authority in the sale of milk of its members.

§ 913.6 *Greater Kansas City marketing area.* "Greater Kansas City marketing area" hereinafter called "marketing area" means all of the territory in Jackson County, Missouri; those portions, excluding Platte City, Missouri, of Platte and Clay Counties in Missouri, south of a line extending in an easterly direction from the Missouri River on the west along State Highway 92 to the intersection of State Highway 92 and U. S. Highway 69, thence north to the north section line of Section 26 in Washington Township in Clay County, thence east along the north section lines of Sections 26 and 25 in Washington Township to the boundaries of Clay and Ray Counties; that part of Cass County, Missouri, which is north of Highway 2; all of the counties of Wyandotte, Leavenworth, Johnson, Douglas, Shawnee, Lyon, and Morris in the State of Kansas, and Riley County, Kansas, exclusive of the Fort Riley Military Reservation.

§ 913.7 *Producer.* "Producer" means any person, other than a producer-handler, who (a) produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk in the marketing area which: (1) Is received at a pool plant, or (2) is caused to be diverted during any of the months of January through August or to the extent of not more than 16 days' production during the months of September through December, from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association, or (b) produces milk acceptable to agencies of the U. S. Government for fluid consumption in its institutions or bases which is received at a pool plant supplying Class I milk to such an institution or base in the marketing area.

§ 913.8 *Route.* "Route" means any delivery (including a sale from a plant or plant store) of a fluid milk product other than a delivery to any milk processing plant.

§ 913.9 *Approved plant.* "Approved plant" means any milk plant or portion thereof which is:

(a) Approved by a duly constituted health authority for the handling of milk for consumption as Grade A milk in the marketing area; or

(b) Approved for the supplying of milk to any agency of the United States Government located within the marketing area.

§ 913.10 *Pool plant.* "Pool plant" means any approved plant other than that of a producer-handler:

(a) From which during the current or immediately preceding delivery period:

(1) There is disposed of as Class I milk on routes in the marketing area, an amount equal to 20 percent or more of such plant's total receipts of milk from dairy farmers qualified to become producers (as defined in § 913.7) and in bulk from other approved plants; and also

(2) During the same delivery period there is disposed of, as Class I milk in total an amount equal to not less than the applicable percentage of such receipts, as follows:

(i) March through June, 30 percent;

(ii) December through February, 35 percent; or

(iii) July through November, 45 percent;

(3) For the purposes of calculating the percentages specified in subparagraphs (1) and (2) of this paragraph:

(i) Milk in packaged form transferred from one approved plant to another approved plant shall be credited as Class I disposition on routes by the transferor plant and an equal volume shall be excluded from the Class I disposition of the transferee plant; and

(ii) The combined receipts and disposition of the multiple plant operation shall be used in the case of each handler who disposes of any milk on a route in the marketing area and also operates more than one approved plant;

(b) From which, during the month not less than 50 percent of its supply of milk from dairy farmers qualified to become producers, less any milk disposed of as Class I on routes is moved to a plant(s) described in paragraph (a) of this section: *Provided,* That any plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentage of its supply of milk from dairy farmers qualified to become producers during each of the months from the effective date hereof through December 1957, and, in subsequent years, during each of the months of August through December, shall be a pool plant for each of the following months of January through July unless

a written request for nonpool status is furnished to the market administrator; or

(c) Which is operated by a cooperative association and 65 percent or more of the milk delivered during the delivery period by producers who are members of such association is received at the pool plants of other handlers.

(d) For the purpose of this section milk diverted to a nonpool plant shall be deemed to have been received at the pool plant from which it was diverted.

§ 913.11 *Handler.* "Handler" means:

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

(b) Any person in his capacity as the operator of a nonpool plant from which fluid milk products are disposed of on a route(s) in the marketing area;

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. (Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.); or

(d) Any cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant from which it is diverted.)

§ 913.12 *Producer-handler.* "Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes to retail or wholesale outlets in the marketing area; and

(c) The buttterfat or skim milk disposed of in the form of a fluid milk product does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of a fluid milk product from pool plants of other handlers.

§ 913.13 *Producer milk.* "Producer milk" means all milk produced by a producer, which is received at a pool plant directly from such producer.

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

(a) Receipts during the delivery period 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.

§ 913.15 *Delivery period.* "Delivery period" means a calendar month or the portion thereof during which this part or any amendment thereto is in effect.

§ 913.16 *Base milk.* "Base milk" means the amount of milk received by a handler from a producer during each of the delivery periods of February through July which is not in excess of such producer's daily base computed pursuant to § 913.65 multiplied by the number of days in such delivery period on which such milk was received by the handler: *Provided,* That with respect to any producer on "every-other-day" delivery to a pool plant the days of non-delivery shall be considered as days of delivery for purposes of this section and of § 913.65.

§ 913.17 *Excess milk.* "Excess milk" means the amount of milk received by a handler from a producer during each of the delivery periods of February through July which is in excess of base milk received from such producer during such delivery period, and shall include all milk received from a producer for whom no daily base can be computed pursuant to § 913.65.

§ 913.18 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream (sweet or sour, including any mixture of cream and milk or skim milk containing less butterfat than the regular standard for cream), and concentrated (frozen or fresh) milk, flavored milk, or flavored milk drinks which are neither sterilized nor in hermetically sealed cans.

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

MARKET ADMINISTRATOR

§ 913.20 *Designation.* The agency for the administration hereof 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.

§ 913.21 *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 violations;

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

(d) To recommend amendments to the Secretary.

§ 913.22 *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 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of funds provided by § 913.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 913.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties:

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

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

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

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

(1) Made reports pursuant to §§ 913.30 through 913.32,

(2) Maintained adequate records and facilities pursuant to § 913.33, or

(3) Made payments pursuant to §§ 913.80 through 913.86,

(i) On or before the 14th day after the end of each delivery period, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

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

(1) On or before the 12th day of each month the minimum price for Class I milk pursuant to § 913.51 (a) and the Class I butterfat differential pursuant to § 913.52 (a), both for the current delivery period; and on or before the 5th day of each month the minimum price for Class II milk pursuant to § 913.51 (b) and the Class II butterfat differential pursuant to § 913.52 (b), both for the delivery period immediately preceding; and

(2) On or before the 12th day of each month the applicable uniform price(s) computed pursuant to §§ 913.71 and 913.72 and the producer butterfat differential computed pursuant to § 913.82, both applicable to milk delivered during the previous delivery period;

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

(l) On or before February 1 of each year in writing notify: (1) Each producer who made deliveries of milk during the previous September through December of his daily base computed pursuant to § 913.65, (2) each cooperative association of the daily base of each member of such association, and (3) each handler of the daily base of each producer from whom such handler received milk.

REPORTS, RECORDS, AND FACILITIES

§ 913.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler or a handler making payments pursuant to § 913.61 (a), shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The receipts at each plant of milk from each producer, the average butterfat test, the pounds of butterfat contained therein, the number of days on which milk was received from such producer, and for each of the delivery periods of February through July, the total pounds of base milk and excess milk received from each producer.

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

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

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

(e) The disposition of fluid milk products on routes wholly outside the marketing area;

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

(g) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the delivery period.

§ 913.31 *Payroll reports.* On or before the 23rd day of each delivery period, each handler except a producer-handler or a handler making payments pursuant to § 913.61 (a) shall submit to the market administrator his producer payroll for receipts during the preceding delivery period which shall show:

(a) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer and cooperative association, and the number of days on which milk was received from such producer, including, for each of the delivery periods of February through July, such producer's deliveries of base milk and excess milk,

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

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

§ 913.32 *Other reports.* (a) Each producer-handler and each handler making payments pursuant to § 913.61 (a) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes producer milk to be diverted to any plant shall report, prior to such diversion, to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(c) Each handler who receives from producers, milk for which payment is to be made to a cooperative association pursuant to § 933.80 (c) shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 23rd day of the delivery period, the total pounds of milk received during the first 15 days of the delivery period;

(2) On or before the 7th day after the end of the delivery period;

(i) The pounds per shipment, the total pounds of milk (base milk and excess milk separately for February through July) and the average butterfat test of milk received from such producer during the delivery period;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 913.86.

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

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

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

(c) Payments to producers and cooperative associations; and

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

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

CLASSIFICATION

§ 913.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period by a handler which is required to be reported pursuant to § 913.30 shall be classified by the market administrator pursuant to the provisions of §§ 913.41 through 913.46.

§ 913.41 *Classes of utilization.* Subject to the conditions set forth in §§ 913.43 and 913.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of for consumption in the form of fluid milk products except those classified pursuant to pararaph (b) (5) of this section, or (2) not specifically accounted for as Class II utilization;

(b) Class II milk shall be all skim milk and butterfat: (1) used to produce any products other than fluid milk products; (2) used for starter churning, wholesale baking and candy making purposes; (3) disposed of as livestock feed; (4) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (5) in inventory of fluid milk products on hand at the end of the month; (6) in shrinkage allocated to receipts of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers or received directly from cooperative associations pursuant to § 913.11 (c), less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk lots to the pool plants of other handlers; and (7) in shrinkage allocated to receipts of other source milk.

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

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

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 913.11 (c) and in bulk tanks from pool plants of other handlers, and (2) the receipts of skim milk and butterfat in other source milk.

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

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

§ 913.44 *Transfers.* Skim milk or butterfat transferred from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of milk, skim milk, or cream, to the pool plant of another handler unless utilization in Class II is mutually in-

dicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the delivery period within which such transfer occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 913.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further*, That if either or both plants have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

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

(c) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant located more than 200 miles from the City Hall in Kansas City, Missouri, Manhattan, Kansas, or Emporia, Kansas, whichever is closest by the shortest highway distance as determined by the market administrator, except that (1) cream so transferred may be classified as Class II milk if its utilization as Class II milk is established through the operation of another Federal order for another milk marketing area; or (2) cream so transferred with prior notice to the market administrator, and with each container labeled or tagged with a certificate of the transferor that such cream is sold as "Grade C cream for manufacturing only", may be classified as Class II milk, subject to such verification of alternate utilization as the market administrator may make.

(d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant located not more than 200 miles from the City Hall in Kansas City, Missouri, Manhattan, Kansas, or Emporia, Kansas, whichever is closest by shortest highway distance as determined by the market administrator, unless the market administrator is permitted to audit the records of receipts and utilization at such nonpool plant, in which case the classification of all skim milk and butterfat received at such nonpool plant shall be determined and the skim milk and butterfat transferred from the pool plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I Grade A milk, receipts of skim milk and butterfat at such nonpool plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for Grade A usage of such nonpool plant in markets supplied by such plant.

(e) If any skim milk or butterfat is transferred to a second nonpool plant under paragraph (d), the same conditions of audit, classification, and allocation shall apply.

§ 913.45 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct mathematical and other obvious errors in the report of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 913.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 913.45 the market administrator shall determine the classification of milk received from producers at the pool plant(s) of each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk allocated to shrinkage in skim milk received from producers pursuant to § 913.41 (b) (6);

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act;

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

(5) Subtract from the pounds of skim milk remaining in each class the skim milk received from other pool plants or from a cooperative association pursuant to § 913.11 (c) according to its classification as determined pursuant to § 913.44 (a);

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

(7) Subtract from the pounds of skim milk remaining in each class any amount by which the pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers in series beginning with Class II. Such excess shall be called "overage".

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

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

MINIMUM PRICES

§ 913.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk for the delivery period shall be the higher of the prices computed pursuant to paragraphs (a) or (b) 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 delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department divided by 3.5 and multiplied by 3.8:

Present Operator and Location

Borden Co., Mount 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 pursuant to subparagraphs (1) and (2) of this paragraph:

(1) To 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) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period, add 20 percent thereof and multiply by 3.8.

(2) To the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 7.

§ 913.51 *Class prices.* Subject to the provisions of §§ 913.52 and 913.53, and rounded to the nearest one-tenth of a cent, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the delivery period shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding delivery period plus $1.15 during each of the delivery periods of April, May, June and July, and plus $1.45 during all other delivery periods plus or minus a supply-demand adjustment of not more than 45 cents, computed as follows:

(1) Divide the total receipts of producer milk in the first and second months preceding by the total gross volume of Class I milk at pool plants (excluding interhandler transfers) for the same months, multiply the result by 100 and round to the nearest whole number. The result shall be known as the "current utilization percentage": *Provided*, That, in making this computation for the first month immediately following the effective date of this subpart, there shall be used the combined receipts of producer milk and the combined applicable gross volumes of Class I milk as reported under Part 980 of this chapter regulating the handling of milk in the Topeka, Kansas, marketing area and as reported under this subpart during the first and second months immediately preceding the effective date of this subpart, and in making such computation for the second month following the effective date of this

subpart, there shall be used the applicable combined figures for the two markets for the month immediately preceding the effective date of this subpart.

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

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

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage";

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage".

Delivery period for which price applies	Delivery periods used in computation	Percentages	
		Minimum	Maximum
January	November-December	134	141
February	December-January	134	141
March	January-February	130	137
April	February-March	129	136
May	March-April	132	140
June	April-May	145	153
July	May-June	143	151
August	June-July	133	140
September	July-August	123	130
October	August-September	119	125
November	September-October	120	126
December	October-November	128	135

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

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

(ii) One cent for each such percentage point of net deviation for which a percentage point of net deviation of like direction was computed pursuant to subparagraph (2) of this paragraph in the computation of the Class I price applicable for the delivery period immediately preceding; plus

(iii) One cent for each such percentage point of net deviation for which percentage points of net deviation in like direction were computed pursuant to subparagraph (2) of this paragraph in the computations of each of the Class I prices applicable for the first and second delivery periods immediately preceding.

(b) *Class II milk.* The higher of:

(1) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for ungraded milk of 3.8 percent butterfat content received from farmers during the delivery period at the following plants for which prices have been reported to the market administrator, plus 15 cents:

Present Operator and Location

Borden Co., Fort Scott, Kans.
Carnation Co., Girard, Kans.
Kraft Foods Co., Nevada, Mo.
Pet Milk Co., Iola, Kans.
Swift & Co., Parsons, Kans.

or

(2) The price per hundredweight computed as follows:

(i) Multiply by 4.60 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) of Grade AA (93-score) bulk creamery butter per pound at Chicago as reported by the Department during the delivery period: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk, 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 delivery period through the 25th day of the current delivery period, by the Department; and

(iii) From the sum of the results arrived at under (i) and (ii) above, subtract 78 cents.

§ 913.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to either class pursuant to § 913.46 (c) is more or less than 3.8 percent there shall be added to the respective class price computed pursuant to § 913.51 for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.8 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 3.8 percent, an amount equal to the butterfat differential computed as follows:

(a) For Class I milk, multiply the butter price specified in § 913.50 (b) (1) by 1.3, divide the result by 10; and round to the nearest one tenth of a cent.

(b) For Class II milk (1) during each of the delivery periods of September through February, multiply the butter price specified in § 913.50 (b) (1) by 1.2 and divide the result by 10; and (2) during each of the delivery periods of March through August, multiply the butter price specified in § 913.50 (b) (1) by 1.15, divide the result by 10, and round to the nearest one-tenth of a cent.

§ 913.53 *Location adjustments to handlers.* (a) For milk which is received from producers at a pool plant located more than 50 miles by shortest highway distance, as determined by the market administrator, from the City Hall in Kansas City, Missouri, Lawrence, Kansas, Topeka, Kansas, Manhattan, Kansas, Council Grove, Kansas, or Emporia, Kansas, whichever is closest, and which is classified as Class I milk the prices computed pursuant to § 913.51 (a) shall be reduced by 16 cents if such plant is located more than 50 miles but not more than 70 miles from such City Hall and by an additional one-half cent for each 10 miles or fraction thereof that such distance exceeds 70 miles.

(b) Milk moved in bulk from a plant as defined in § 913.10 (b) or (c) to a plant as defined in § 913.10 (a) shall be considered to be Class I milk to the extent that the Class I milk disposed of from the transferee plant exceeds receipts of milk from producers' farms: *Provided,* That if milk is received by a plant defined in § 913.10 (a) from more than one plant, the milk so classified as Class I shall be deemed to have been transferred from the transferor plants in the order of their lowest applicable location adjustment.

§ 913.54 *Use of equivalent prices.* If for any reason a price specified by this part for computing class prices or for other purposes is not available in the manner described in this part, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is specified.

APPLICATION OF PROVISIONS

§ 913.60 *Producer-handlers.* Sections 913.40 through 913.45, 913.50 through 913.53, 913.61, 913.70, 913.71, 913.80 through 913.88 shall not apply to a producer-handler.

§ 913.61 *Handlers operating a nonpool plant.* In lieu of the payments required pursuant to §§ 913.80 through 913.89, each handler, other than a producer-handler or one exempt pursuant to § 913.62, who operates during the month a nonpool plant, shall pay to the market administrator on or before the 25th day after the end of the delivery period the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 913.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts:

(1) For the producer-settlement fund, an amount equal to the value of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area at the Class I price applicable at the location of such handler's plant, less the value of such skim milk and butterfat at the Class II price; and

(2) As his share of the expense of administration, the rate specified in § 913.88 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts:

(1) For the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 913.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the delivery period from dairy farmers whose milk was approved for fluid use; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 913.88 had such plant been a pool plant.

§ 913.62 *Milk subject to other orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the delivery period to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Greater Kansas City marketing area shall be exempted for such delivery period from all provisions of this part except that he shall make reports to the market administrator at such time and in such manner as the market administrator may require.

DETERMINATION OF BASE

§ 913.65 *Computation of daily base for each producer.* The daily base for each producer applicable during each of the delivery periods of February through July, inclusive, shall be determined by the market administrator as follows:

Divide the total pounds of milk received by a handler(s) at a pool plant from such producer during the immediately preceding delivery periods of September through December by the number of days during such period on which milk was received from such producer, or by 90, whichever is greater: *Provided,* That, in the case of producers delivering milk to a plant which first became a pool plant during any of the months of October through July, a daily average base for each such producer shall be calculated pursuant to this section on the basis of his deliveries of milk to such plant during the period September through December immediately preceding.

§ 913.66 *Daily base rules.* (a) Except as provided in paragraph (b) of this section, a daily base shall apply only to milk produced by the producer in whose name such milk was delivered to the handler(s) during the base forming period.

(b) A producer may transfer his daily base during the period of February through July by notifying the market administrator in writing before the last day of any delivery period that such base is to be transferred to the person named in such notice but under the following conditions only:

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

(2) If a base is held jointly and such joint holding is terminated on the basis of written notice to the market administrator from the joint holders the entire daily base may be transferred to one of the joint holders, or divided in accordance with such notice between the former joint holders if they continue dairy operations.

DETERMINATION OF UNIFORM PRICE

§ 913.70 *Computation of the value of milk received from producers by each handler.* The value of milk received during each delivery period by each handler from producers shall be a sum of money computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 913.46 (c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 913.46 (a) (7) by the applicable respective class prices;

(c) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk (other than as shrinkage) during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 913.46 (a) (5) and (b), whichever is less; and

(d) For any skim milk or butterfat subtracted from Class I milk pursuant to § 913.46 (a) (2) and (b), and pursuant to § 913.46 (a) (5) and (b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (c) of this section, add an amount equal to the differences between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided,* That such calculation shall not apply if the total receipts of producer milk at pool plants during the month are not more than 120 percent of the total Class I utilization of such plants for the month;

§ 913.71 *Computation of uniform price.* For each of the delivery periods of August through January the market administrator shall compute the uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 913.70 for all handlers specified in § 913.11 (a), (c), or (d) and who made the payments pursuant to §§ 913.80 and 913.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 913.81;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 3.8 percent, or add for each one-tenth percent that such average butterfat content is less than 3.8 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 913.82 by the total hundredweight of such milk;

(e) Divide by the total hundredweight of milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for milk of 3.8 percent butterfat content received at pool plants f. o. b. marketing area.

§ 913.72 *Computation of uniform price for base milk and excess milk.* For each of the delivery periods of February through July the market administrator shall compute uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Combine into one total the values computed pursuant to § 913.70 for all handlers who filed reports pursuant to § 913.30 and who make the payments pursuant to §§ 913.80 and 913.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 913.81;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement funds;

(d) Subtract for each one-tenth percent by which the average butterfat content of the milk included in these computations is greater than 3.8 percent, or add for each one-tenth percent that such average butterfat content is less than 3.8 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 913.82 by the total hundredweight of such milk;

(e) Compute the total value of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 3.8 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 3.8 percent butterfat content, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.8 percent butterfat received from producers;

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the aggregate value of milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

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

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 3.8 percent butterfat content received from producers at pool plants, f. o. b. marketing area.

PAYMENTS

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

(a) On or before the 15th day after the end of each delivery period during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) pursuant to § 913.71 or § 913.72, adjusted by the butterfat differential computed pursuant to § 913.82, subject to the location adjustment to producers pursuant to § 913.81, and less the following amounts (1) the payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 913.87, and (3) any deductions authorized by the producer: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 913.85 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph

next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each delivery period to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section and (2) who had not discontinued shipping milk to such handler before the 18th day of the delivery period, an advance payment with respect to milk received from such producer during the first 15 days of the delivery period at the approximate value of such milk, not to be less than the Class II price for 3.8 percent milk for the preceding delivery period, without deduction for hauling;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 20th day of the delivery period, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each delivery period an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) On or before the 14th day after the end of each delivery period, to each cooperative association, with respect to receipts of milk for which such cooperative association is defined as the handler pursuant to § 913.11 (c), not less than the value of such milk as classified pursuant to § 913.44 (a) at the applicable respective class price(s).

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 913.80, 913.81 and 913.82;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 913.87 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(f) Nothing in this section shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

§ 913.81 *Location adjustment to producers.* In making payments to producers pursuant to § 913.80 (a), for all milk received during the months of August through January and for base milk received during the months of February through July, at a pool plant located 50 miles or more from the City Hall in Kansas City, Missouri, Lawrence, Kansas, Topeka, Kansas, Manhattan, Kansas, Council Grove, Kansas, or Emporia, Kansas, whichever is closest, by shortest highway distance as determined by the market administrator, there shall be deducted 16 cents per hundredweight of milk for distances of 50 to 70 miles, inclusive, plus an additional one-half cent for each additional 10 miles or fraction thereof in excess of 70 miles.

§ 913.82 *Producer butterfat differential.* In making payments pursuant to § 913.80, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 3.8 percent, an amount computed by adding 4 cents to the butter price specified in § 913.50 (b) (1) dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 913.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 913.61 (a) (1) and (b) (1) and 913.84 and all appropriate payments pursuant to § 913.86 and out of which he shall make all payments pursuant to § 913.85 and all appropriate payments pursuant to § 913.86: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 913.84 *Payments to the producer-settlement fund.* On or before the 14th day after the end of each delivery period, each handler shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 913.70 is greater than the amount required to be paid producers by such handler pursuant to § 913.80 before deductions (a) for marketing services pursuant to § 913.87 and (b) authorized by the producer.

§ 913.85 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each delivery period during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during such delivery period as determined pursuant to § 913.70 is less than the amount required to be paid producers by such handler pursuant to § 913.80 before deductions (a) for marketing services pursuant to § 913.87 and (b) authorized by the producer: *Provided,* That if at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shal reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

§ 913.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

§ 913.87 *Marketing service*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 913.80 (a), shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 913.80 (a), as are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

§ 913.88 *Expense of administration*—(a) *Payments by handlers.* As his pro rata share of the expense of the administration hereof, each handler shall pay the market administrator, on or before the 12th day after the end of each delivery period, 2 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received from producers during such delivery period.

(b) *Suits by the market administrator.* The market administrator may

maintain a suit in his own name against any handler for the collection of such handler's pro rata share of expenses set forth in this section.

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

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

(1) The amount of the obligation;

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

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

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

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this 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 calendar month during which the milk involved in the claim was received if an under payment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 913.90 *Effective time.* The provisions of this part or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 913.91.

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

§ 913.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations under this part 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.

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

MISCELLANEOUS PROVISIONS

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

§ 913.101 *Separability of provisions.* If any provision 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 20th day of September 1957 to be effective October 1, 1957.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 57-7857; Filed, Sept. 24, 1957; 8:52 a. m.]

[957.316 Amdt. 4]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

Findings. (a) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of recommendations and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby 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 in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) 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 act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this amendment, (iii) compliance with amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted, under the circumstances, for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

Order, as amended. The provisions of § 957.316 (b) (1) (22 F. R. 4785; 5862; 5993; 7420), are hereby amended to read as follows:

(b) *Order.* (1) Except as otherwise provided in this section during the period from September 23, 1957, through June 30, 1958, no handler shall ship potatoes of any variety unless such potatoes are generally "fairly clean," which means that at least 90 percent of such potatoes are "fairly clean," as such terms are defined in the U. S. Standards for Potatoes (§§ 51.1540–51.1559 of this title), and

(i) If they are of the round varieties (including, but not being limited to, Bliss Triumph and Pontiac varieties), such potatoes meet the requirements of U. S. No. 2, or better, grade, 1⅞ inches minimum diameter,

(ii) If they are of the White Rose variety, such potatoes meet the requirements of U. S. No. 2, or better, grade, 5 ounces minimum weight: *Provided,* That

any such potatoes that grade not less than U. S. No. 1, may be shipped if they are of 2⅛ inches minimum diameter or 4 ounces minimum weight,

(iii) If they are of the Kennebec variety, such potatoes meet the requirements of U. S. No. 2, or better, grade, and are of 2 inches minimum diameter or 4 ounces minimum weight, and

(iv) If they are of any other variety (including, but not being limited to, Russet Burbank, and Early Gem varieties), such potatoes meet the requirements of the U. S. No. 2, or better, grade, 2⅛ inches minimum diameter, or 4 ounces minimum weight: *Provided*, That potatoes of any such variety that meet the requirements of U. S. No. 2, or better, grade, Size A, 2 inches minimum diameter or 4 ounces minimum weight, may be shipped, as such terms, grades, and sizes are defined in the United States Standards for Potatoes (§§ 51.1540–51.1559 of this title, including the tolerances set forth therein.

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

Dated: September 20, 1957, to become effective September 23, 1957.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 57-7827; Filed, Sept. 24, 1957; 8:45 a. m.]

PART 1003—DOMESTIC DATES PRODUCED OR PACKED IN LOS ANGELES AND RIVERSIDE COUNTIES OF CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES OF DATE ADMINISTRATIVE COMMITTEE FOR 1957–58 CROP YEAR AND FIXING RATE OF ASSESSMENT FOR SUCH CROP YEAR

Notice was published in the September 11, 1957 issue of the FEDERAL REGISTER (22 F. R. 7237) that the Secretary of Agriculture was considering a proposed rule to approve a budget of expenses for the Date Administrative Committee for the crop year that began on August 1, 1957, and to fix the rate of assessment for that year, as hereinafter set forth. The budget and rate of assessment are in accordance with recommendations of the committee pursuant to the provisions of Marketing Agreement No. 127 and Marketing Order No. 103 (7 CFR Part 1003) regulating the handling of domestic dates produced or packed in Los Angeles and Riverside Counties of 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 proposals were submitted. After consideration of all available information, it is hereby found and determined, and, therefore, it is hereby ordered, that the budget of expenses of the committee and the rate of assessment for the crop year, which began on August 1, 1957 and will end on July 31, 1958, shall be as follows:

§ 1003.302 *Budget of expenses of the Date Administrative Committee and rate of assessment for the 1957–58 crop year—*

(a) *Budget of expenses.* Expenses in the amount of $36,900 are reasonable and are likely to be incurred by the Date Administrative Committee for its maintenance and functioning for the crop year which began on August 1, 1957 and will end on July 31, 1958.

(b) *Rate of assessment.* Each handler shall pay to the Date Administrative Committee, in accordance with the provisions of §§ 1003.72 and 1003.73, an assessment rate of 15 cents per hundredweight of dates handled or certified for handling by him during the crop year which began on August 1, 1957 and will end on July 31, 1958. Such assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

It is hereby found and determined that good cause exists for not postponing the effective date of this document later than the date of its publication in the FEDERAL REGISTER (see section 4 (c) of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.) in that (1) Deliveries of 1957 crop dates from producers to handlers have already commenced; (2) the committee must be enabled to obtain assessment funds promptly to defray expenses of administering the program; and (3) handlers should need no additional advance notice for compliance with this regulation. In these circumstances, this document should be made effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: September 20, 1957, to become effective upon publication in the FEDERAL REGISTER.

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

[F. R. Doc. 57-7860; Filed, Sept. 24, 1957; 8:52 a. m.]

PART 1008—MILK IN INLAND EMPIRE MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

AUTHORITY: §§ 1008.60 to 1008.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 1008.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agree-

ments and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (i) other source milk (except other order milk) classified as Class I milk, and (ii) milk received from producers, including such handler's own production.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order, as amended, effective not later than October 1, 1957. Any delay beyond that date in the effective date of this order woul tend to disrupt the orderly marketing of milk in the aforesaid marketing area and would defeat the purpose of the amendment. The amendment action of this order amending the order, as amended, is known to handlers. The public hearing was held May 28, 29 and 31, 1957, and the recommended decision was issued August 9, 1957 (22 F. R. 6514). The final decision was issued by the Assistant Secretary on September 10, 1957 (22 F. R. 7326). Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for not delaying the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (section 4 (c); Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

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

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

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

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum thereon, and who, during the determined representative period (June 1957), were engaged in the production of milk for sale in the said marketing area.

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

DEFINITIONS

§ 1008.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 1008.2 *Secretary.* "Secretary" means the Secretary of Agriculture, or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1008.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 1008.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1008.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1008.11 and which the Secretary determines, after application by the association:

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

(b) To have its entire organization and all its activities under the control of its members; and

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

§ 1008.6 *Inland Empire marketing area.* "Inland Empire marketing area" (hereinafter called the "marketing area") means that portion of Bonner County, Idaho, lying south of Township 60 and west of Range 2 East Boise Meridian; all of Kootenai County, Idaho, except that portion lying east of Range 3 West Boise Meridian and south of Township 53; Boundary County, Idaho; Benewah County, Idaho; Spokane County, Washington; that portion of Pend Oreille County, Washington, lying south of Township 35; and that portion of Stevens County, Washington, lying south of Township 37. This definition shall include all municipal corporations, Federal military reservations, facilities, and installations and State institutions lying wholly or partly within the above-described area.

§ 1008.7 *Plant.* "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling, or processing of milk or milk products: *Provided,* That this definition shall not include any platform or depot used primarily for the transfer of milk from one conveyance to another in the original milk containers.

§ 1008.8 *Pool plant.* "Pool plant" means any plant, other than the plant of a producer-handler or a plant at which the milk of dairy farmers is priced by another milk marketing agreement or order issued pursuant to the act, which is approved by any health authority having jurisdiction in the marketing area as a plant for the receiving of milk qualified for consumption as fluid milk in the marketing area and from which:

(a) Class I milk pursuant to § 1008.41 (a) (1), (2) and (3) in an amount not less than 20 percent of its receipts of milk qualified as described in § 1008.11 is distributed within the marketing area on routes (for the purpose of this section route shall mean a delivery to retail or wholesale outlets, including delivery by a vendor or a sale from a plant or plant store of milk or any milk product classified as Class I milk pursuant to § 1008.41 (a) (1), (2) or (3) other than a delivery to another pool plant): *Provided,* That the total quantity of Class I milk disposed of from such plant during the month either inside or outside the marketing area on routes is not less than 50 percent of such plant's total receipts of milk qualified as described in § 1008.11; or

(b) Milk, skim milk, or cream is forwarded to a plant described in paragraph (a) of this section: *Provided,* That no plant forwarding milk in such manner shall be a pool plant if the percentage which the quantity of either butterfat or skim milk in milk, skim milk, and cream so forwarded is of the amount thereof contained in milk (qualified as described in § 1008.11) received from dairy farmers at such plant is less than 50 percent

in the current month during the period October through December, and 20 percent in the current month during the period January through September, except if the percentage forwarded was more than 50 percent of such receipts for the entire period October through December, no percentage shall be required for such months of January through September immediately following: *And provided further,* That any such plant which otherwise meets the requirements of this paragraph but is not a plant qualified as a pool plant under paragraph (a) of this section may withdraw from pool plant status for any month in the January–September period if the operator of such plant files with the market administrator prior to the first day of such month a written request for such withdrawal.

§ 1008.9 *Nonpool plant.* "Nonpool plant" means any plant other than a pool plant.

§ 1008.10 *Dairy farmer.* "Dairy farmer" means any person who operates a farm engaged in the production of milk.

§ 1008.11 *Producer.* "Producer" means any dairy farmer, other than a producer-handler, who produces milk of dairy cows under a dairy farm permit or rating issued by an appropriate health authority having jurisdiction in the marketing area for the production of milk qualified for disposition to consumers in fluid form within the marketing area.

§ 1008.12 *Producer milk.* "Producer milk" or "milk received from producers" means milk of any producer qualified as described in § 1008.11 and either (a) received directly from a farm at a pool plant, or (b) caused to be diverted by a handler for his account from such plant to a nonpool plant during any of the months of February through August: *Provided,* That milk from the same producer (or from a producer who previously held such producer's base) was received at a pool plant during some portion of the period September through January immediately preceding: *And provided further,* That for all purposes under this order such diverted milk shall be deemed to have been received at the pool plant from which diverted.

§ 1008.13 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts of milk and milk products in any of the forms specified in § 1008.41 (a) (1), (2) and (3) (including other order milk), except (1) such milk and milk products received from a pool plant(s) and (2) producer milk; and

(b) Products other than those specified in § 1008.41 (a) (1), (2) and (3) from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 1008.14 *Other order milk.* "Other order milk" means all skim milk and butterfat in any of the forms specified in § 1008.41 (a) (1), (2) or (3), received by a handler but the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any other milk marketing area.

§ 1008.15 *Handler.* "Handler" means:

(a) Any person engaged in the handling of milk in his capacity as the operator of a pool plant(s) or any other plant from which milk in any of the forms specified in § 1008.41 (a) (1), (2) and (3) is disposed of, either directly or indirectly, to any place or establishment within the marketing area other than a plant.

(b) Any cooperative association, which is not a handler pursuant to paragraph (a) of this section, with respect to producer milk caused to be diverted from a pool plant to a nonpool plant for the account of such association.

§ 1008.16 *Producer-handler.* "Producer-handler" means any person who is both a dairy farmer and a handler, but who receives no milk from other dairy farmers: *Provided,* That such person provides proof satisfactory to the market administrator that (a) the maintenance, care, and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled is the personal enterprise of and at the personal risk of such person in his capacity as a dairy farmer, and (b) the operation of a plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1008.17 *Base.* "Base" means a quantity of milk, expressed in pounds per day or per month, computed pursuant to § 1008.60 (a) and (b), respectively.

§ 1008.18 *Base milk.* "Base milk" means milk received from a producer at a pool plant during the month in an amount which is not in excess of:

(a) Such producer's daily base computed pursuant to § 1008.60 (a) multiplied by the number of days of delivery in such month: *Provided,* That with respect to any producer on "every-other-day" delivery to a pool plant the intervening days of nondelivery shall be considered as days of delivery for the purposes of this section and § 1008.60; or

(b) His base computed pursuant to § 1008.60 (b).

§ 1008.19 *Excess milk.* "Excess milk" means milk delivered by a producer in excess of base milk.

MARKET ADMINISTRATOR

§ 1008.20 *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 designated by, and shall be subject to removal at the discretion of, the Secretary.

§ 1008.21 *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 violations;

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

(d) To recommend amendments to the Secretary.

§ 1008.22 *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, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of funds provided by § 1008.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1008.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

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

(1) Made reports pursuant to §§ 1008.30 to 1008.32, inclusive; or

(2) Made one or more of the payments pursuant to §§ 1008.80 to 1008.88, inclusive.

(i) On or before the 16th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk caused to be delivered by such cooperative association directly from farms of producers who are members of such cooperative association to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by such cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) On or before the 12th day after the end of each month, notify:

(1) Each handler whose total value of milk is computed pursuant to § 1008.70 (a) of:

(i) The amounts and values of his producer milk in each class and the totals of such amounts and values;

(ii) The amount of any charge made pursuant to § 1008.70 (a) (5);

(iii) The uniform prices for base milk and excess milk;

(iv) The totals of the amounts computed in the manner provided by § 1008.80 (a);

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

(vi) The totals of the amounts required to be paid by such handler pursuant to §§ 1008.87 and 1008.88.

(2) Each handler whose total value of milk is computed pursuant to § 1008.70 (b) of the pounds of other source milk on which payment is required to be made and the amount due the producer-settlement fund from such handler.

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

(1) On or before the 6th day of each month the minimum price for Class I milk pursuant to § 1008.51 (a) and the Class I butterfat differential pursuant to § 1008.52 (a), both for the current month; and the respective minimum prices for Class II A milk and Class II milk pursuant to § 1008.51 (b) and (c) and the Class II butterfat differential pursuant to § 1008.52 (b), both for the preceding month; and

(2) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 1008.71 and the butterfat differential(s) computed pursuant to § 1008.82, both applicable to producer milk received during the preceding month.

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

REPORTS, RECORDS, AND FACILITIES

§ 1008.30 *Monthly reports of receipts and utilization.* On or before the 7th day of each month, in the detail and on forms prescribed by the market administrator, each handler shall submit to the market administrator a report for such handler's pool plant(s) and with respect to milk or milk products subject to payments required under § 1008.70 (b), containing the following information for the preceding month:

(a) The quantities of skim milk and butterfat contained in milk received from producers;

(b) The quantities of skim milk and butterfat contained in milk and milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk (including other order milk) received (except manufactured milk products of the types covered by Class II A milk and Class II milk in § 1008.41 disposed of in the form in which received without further processing by the handler);

(d) Inventories of items included in Class I milk on hand at the beginning of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including (1) the pounds of skim milk and butterfat on hand at the end of each month as items included in Class I milk; and (2) a separate statement as to the amount of Class I milk disposed of on wholesale or retail routes (other than to plants) entirely outside the marketing area.

(f) The aggregate quantities of base milk and excess milk received; and

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

§ 1008.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

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

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

§ 1008.32 *Other reports.* (a) At such times and in such manner as the market administrator may prescribe each handler shall report to the market administrator such information in addition to that required under § 1008.30 as may be requested by the market administrator with respect to milk and milk products handled by him.

(b) As requested by the market administrator, each producer-handler shall report to the market administrator relative to his receipts, utilization, and disposition of milk and milk products.

(c) As requested by the market administrator, each handler shall report the total quantity of milk received from each producer and the number of days of such delivery for each month beginning with September 1956.

§ 1008.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations (and summaries thereof customarily maintained) and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to the information required to be reported pursuant to §§ 1008.30, 1008.31, and 1008.32 and to payments required to be made pursuant to §§ 1008.80 through 1008.88.

§ 1008.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8 (c) (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market adminstrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1008.35 *Handler report to producers.* (a) In making payments to producers pursuant to § 1008.80, each handler, on or before the 17th day of each month, shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month (1) the identification of the handler and the producer; (2) the total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not furnished to the producer each day of delivery; (3) the minimum rate(s) at which payment to the producer is required under the provisions of § 1008.80; (4) the rate(s) used in making the payment, if such rate(s) is other than the required minimum rate(s), (5) the amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and (6) the net amount of payment to the producer.

(b) In making payment to a cooperative association in aggregate pursuant to § 1008.80 (b) each handler upon request shall furnish to the cooperative association, on or before the 16th day of each month, with respect to each producer for whom such payment is made, all the information specified in paragraph (a) of this section.

CLASSIFICATION

§ 1008.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 1008.30 shall be classified by the market administrator pursuant to the provisions of §§ 1008.41 through 1008.45, inclusive.

§ 1008.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1008.42, 1008.43, and 1008.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of in fluid or frozen form as milk, skim milk (including fortified skim milk), skim milk drinks, buttermilk, flavored milk, flavored milk drinks, and cream (sweet or sour), but not including any of the above items if sterilized and packaged in metal containers hermetically sealed; (2) used in the production of concentrated milk, skim milk, flavored milk and flavored

milk drinks not sterilized (but not including (i) those products commonly known as evaporated milk, condensed milk, and condensed skim milk, (ii) flavored milk or flavored milk drink sterilized and packaged in metal containers hermetically sealed; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b) (3) of this section); (3) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of to a commercial processor, cocoa mixes, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt); (4) shrinkage of producer milk in excess of that pursuant to paragraph (b) (6) of this section and shrinkage allocated to receipts from other handlers pursuant to § 1008.42 (b); and (5) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than those included under paragraphs (a) (1), (2), (3), and (c) of this section; (2) disposed of (skim milk only) for livestock feed or dumped during April, May, June, or July: *Provided*, That in the case of skim milk dumped, the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (3) disposed of in bulk in any of the forms specified in paragraph (a) (1), (2), and (3) of this section (i) to bakeries, soup companies and candy manufacturing establishments in their capacity as such, (ii) to nonpool plants subject to the conditions of § 1008.44 (b) (2); (4) disposed of in any of the forms specified in paragraph (a) (1), (2), and (3) of this section if sterilized and packaged in metal containers hermetically sealed; (5) contained in inventories of items included in paragraph (a) (1), (2), and (3) of this section on hand at the end of the month; (6) in actual shrinkage of producer milk computed pursuant to § 1008.42 but not in excess of 2 percent of the quantities of skim milk and butterfat, respectively, in producer milk; and (7) in actual shrinkage of other source milk computed pursuant to § 1008.42.

(c) Class II A milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses (and shall be included in Class II milk for all purposes of this order except as otherwise expressly stated).

§ 1008.42 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

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

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk, other source milk, and receipts from other handlers.

§ 1008.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat proves that such skim milk and butterfat should be classified as Class II milk.

(b) The burden shall rest upon each handler to establish the sources of milk and milk products required to be reported by him pursuant to § 1008.30.

(c) Except as provided in § 1008.44 (b) (1), any skim milk or butterfat classified on the basis of its use in one product shall be reclassified if used or reused by any handler in another product.

§ 1008.44 *Inter-plant movements.* Skim milk and butterfat transferred as any item specified in § 1008.41 (a) (1), (2), and (3) from a pool plant to another plant shall be assigned (separately) to each class in the following manner:

(a) From a pool plant to another pool plant: As Class I milk unless another class use is indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the month within which such transfer was made: *Provided*, That if either or both plants received any other source milk, the quantity transferred shall be classified at both plants so as to allocate the highest possible utilization to producer milk: *And provided further*, That (1) milk received from a plant subject to location adjustments shall be assigned to Class I milk in the transferee-plant after producer milk receipts and any receipts from plants subject to no location adjustment are assigned to Class I milk; and (2) if milk is received from more than one transferor-plant, assignment to the available Class I milk in the transferee-plant shall be made in sequence according to the location adjustment applicable at each transferor-plant beginning with the plant having the least location adjustment.

(b) From a pool plant to a nonpool plant: Such transfer(s) (also diverted milk) shall be classified as provided below, except that if the market administrator is not permitted to audit the records of the nonpool plant(s) for the purpose of use verification, the entire transfer shall be classified as Class I milk:

(1) As Class I milk, if the transfer (or diversion) is to a nonpool plant which is engaged in the distribution of milk for consumption in fluid form (except as provided in subparagraph (2) of this paragraph) to the extent that milk is disposed of as any of the items specified in § 1008.41 (a) (1), (2), and (3) from the receiving plant.

(2) As Class II milk, if the transfer (or diversion) is to a nonpool plant which is not engaged in the distribution of milk for consumption in fluid form or is engaged in the processing and distribution of milk for fluid consumption which is sterilized and packaged in metal containers hermetically-sealed: *Provided*, That if such nonpool plant disposes of skim milk or butterfat in any of the forms specified in § 1008.41 (a) (1), (2), and (3) to any other nonpool plant distributing milk in fluid form, such disposition, up to the quantity of milk transferred or diverted to the first nonpool plant, shall be classified as Class I milk: *And provided further*, That with respect to the milk to which the preceding proviso does not apply, the remaining transferred or diverted quantity shall be deemed to have been utilized first for the manufacture of Class II A milk products to the extent that such products were produced at such nonpool plant.

§ 1008.45 *Computation of the quantity of producer milk in each class.* For each handler the market administrator shall:

(a) Correct for mathematical and for other obvious errors the monthly report submitted by such handler and compute the total pounds of skim milk and butterfat in each class: *Provided*, That when nonfat milk solids derived from nonfat dry milk solids, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler (1) to fortify (or as an additive to) fluid milk, flavored milk, skim milk, or any other milk product, or (2) for disposition in reconstituted form as skim milk or a milk drink, the total pounds of skim milk computed for the appropriate class of use shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids; and

(b) Allocate skim milk in the following manner:

(1) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk shrinkage allowed pursuant to § 1008.41 (b) (6);

(2) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk in other source milk received (other order milk to be subtracted last) and in overage allocated to other source milk (§ 1008.70 (a) (4)): *Provided*, That if more than one source of other source milk is involved, the skim milk shall be subtracted in sequence beginning with the source at greatest distance from the City Hall, Spokane, Washington: *And provided further*, That if the receipts of skim milk in other source milk plus the overage allocated to other source milk are greater than the pounds of skim milk in Class II milk, the balance shall be subtracted in sequence from the pounds of skim milk in Class II A milk and in Class I milk;

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of items included in § 1008.41 (a) (1), (2) and (3) on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted in sequence from the pounds of skim milk remaining in Class II A milk and in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received from other pool plants and assigned to such class pursuant to § 1008.44;

(5) Add to the remaining pounds of Class II milk, the amount subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class beginning with Class II milk.

(c) Allocate butterfat in accordance with the procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add together for each class the quantities of skim milk and butterfat in such class computed pursuant to paragraphs (b) and (c) of this section and compute the weighted average butterfat content of such class.

MINIMUM PRICES

§ 1008.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in computing the price per hundredweight of Class I milk for the current month shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section for the preceding month:

(a) Divide by 3.5 and then multiply by 4.0 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 dairy farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department.

Present Operator and Location

Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
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 the market administrator from the following formula:

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the simple average 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; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 67 cents.

§ 1008.51 *Class prices.* Subject to the differentials provided in §§ 1008.52 and 1008.53 the following are the minimum prices per hundredweight to handlers for Class I milk, Class II A, and Class II milk:

(a) *Class I milk.* For each month the price for Class I milk shall be the basic formula price rounded to the nearest cent, plus $1.90 adjusted by the amount computed pursuant to paragraph (d) of this section.

(b) *Class II A milk.* The price for Class II A milk shall be the price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class II milk.* The price for Class II milk shall be that computed by the market administrator from the formula set forth in subparagraphs (1), (2), and (3) of this paragraph.

(1) Add 3 cents to the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, and multiply the result by 4.8: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pound for spray and roller process nonfat dry milk 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; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents and round to the nearest cent.

(d) *Supply-demand adjustment.* On or before the 6th day of each month the market administrator shall make the following computations based upon information obtained from handler's reports of receipts and utilization:

(1) Determine the total receipts of producer milk by all handlers (including receipts from a handler's own farm production) during the second and third months preceding;

(2) Determine the total pounds of milk and milk products disposed of from pool plants as Class I milk (excluding shrinkage, unaccounted for milk, and any duplications resulting from interhandler transfers) during the same two months; and

(3) Divide the amount obtained in subparagraph (2) of this paragraph by the amount obtained in subparagraph (1) of this paragraph, and adjust to the nearest full percentage point. The resulting percentage shall be known as the "current supply-demand ratio."

(4) Whenever the current supply-demand ratio varies from the standard utilization percentage for the current month set forth in the following table the Class I price shall be increased or decreased 5.0 cents for each full percentage point that the current supply-demand ratio is above or below, respectively, the percentage for such month set forth in the table, but such price shall not be increased or decreased more than 50 cents for any month because of the current supply-demand ratio:

Month to which applicable	Standard percentages	Months used in computing current supply-demand ratio
January	84	October–November.
February	83	November–December.
March	80	December–January.
April	82	January–February.
May	81	February–March.
June	79	March–April.
July	70	April–May.
August	64	May–June.
September	66	June–July.
October	69	July–August.
November	75	August–September.
December	81	September–October.

§ 1008.52 *Butterfat differentials to handlers.* If the average butterfat content of Class I milk or Class II milk, computed pursuant to § 1008.45, for any handler for any month differs from 4.0 percent, there shall be added to, or subtracted from, the applicable class price (§ 1008.51) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 4.0 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk.* Add 3 cents to the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department during the preceding month, multiply the result by 0.123, and round to the nearest tenth of a cent: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

(b) *Class II milk and Class II–A milk.* Add 3 cents to the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at Chicago, as reported by the Department, during the month, multiply the result by 0.115, and round to the nearest tenth of a cent: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

§ 1008.53 *Location adjustment credits to handlers.* The price for Class I milk at a pool plant located more than 50 miles from the City Hall, Spokane, Washington, shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk pursuant to § 1008.51 (a), less a location adjustment per hundredweight of milk computed as follows: 3 cents for each 10 miles, or major fraction thereof, up to 100 miles, an additional 2.0 cents for each 10 miles, or major fraction thereof, for distances in excess of 100 miles but not more than 200 miles, and an additional 1.0 cent for each 10 miles, or major fraction thereof, in excess of 200 miles, by the shortest hard-surfaced highway distance, as determined by the market administrator, from such pool

plant to the City Hall, Spokane, Washington.

§ 1008.54 *Use of equivalent prices.* If for any reason a price quotation required by this part 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.

DETERMINATION OF BASE

§ 1008.60 *Computation of producer bases.* Subject to the rules set forth in § 1008.61 the market administrator shall determine bases for producers in the following manner:

(a) The daily base of each producer whose milk was received at a pool plant(s) on not less than 120 days during the months of September through January, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered to a pool plant in such five-month period by the number of days from the date of his first delivery to the end of such five-month period: *Provided,* That the daily base of any producer who delivered milk on not less than 120 days during such September–January period to a plant which subsequently qualified as a pool plant shall be computed, in similar manner, on the basis of such producer's deliveries to such plant in such September–January period. The base so computed, which shall be recomputed each year, shall become effective on the first day of March next following and shall remain in effect through the month of February of the next succeeding year.

(b) The base of any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section (including any producer for whom a base may not be computed pursuant to this section because of lack of available information concerning such producer's deliveries in the applicable September–January period) shall be a quantity, to be effective for the current month only, computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	80	July	65
February	75	August	70
March	70	September	75
April	60	October	80
May	60	November	80
June	60	December	80

§ 1008.61 *Base rules.* The following rules shall be observed in determination of bases:

(a) A base computed pursuant to § 1008.60 (a) may be transferred in its entirety to another producer upon written notice to the market administrator on or before the last day of the month of transfer, but only if a producer sells, leases, or otherwise conveys his herd to the same producer and it is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this part: *Provided,* That all deliveries of milk by a producer who has transferred his base to another producer shall be excess milk until March 1 next following such transfer.

(b) A producer who ceases deliveries to a pool plant for more than 45 consecutive days shall lose his base if computed pursuant to § 1008.60 (a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1008.60 (b) until he can establish a new base under § 1008.60 (a), to begin the next March 1.

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1008.60 (a) may relinquish such base by cancellation, and effective from the first day of the month in which notice is received by the market administrator until the next March 1 such producer's base shall be computed in the manner provided by § 1008.60 (b).

(d) As soon as bases computed by the market administrator under § 1008.60 (a) and (b) are allotted, notice of the amount of each producer's base shall be given by the market administrator to the handler receiving such producer's milk and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list (or lists) showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm, he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1008.11 may establish or earn a base pursuant to the provisions of § 1008.60 (a) or (b) and only one base shall be allotted with respect to milk produced by two or more persons where the land, buildings, or equipment used are jointly owned or operated.

DETERMINATION OF UNIFORM PRICE

§ 1008.70 *Computation of value of milk.* (a) The total value of milk received during any month by each handler, including any cooperative association which is a handler, shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of producer milk in each class for such month by the class price (§ 1008.51) and add together the resulting amounts;

(2) Deduct the total amount of all location adjustment credits computed in accordance with § 1008.53;

(3) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of the reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

(4) Add, if such handler had overage, an amount computed by multiplying the pounds of such overage (except overage prorated to other source milk) deducted from each class pursuant to § 1008.45 by the applicable class price: *Provided,* That if (i) overage results in a pool plant having receipts of other source milk, the total overage shall be prorated between other source milk and all other receipts, and (ii) overage results in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, and the transferor handler shall be charged at the applicable class price for the amount of overage allocated to the transferred quantity.

(5) Add, with respect to other source milk (including overage allocated to other source milk but excluding other order milk) received at each pool plant of such handler in excess of the total volume of his Class II milk (except allowable shrinkage) at such plant, an amount computed by multiplying the hundredweight of such other source milk by the difference between the Class I milk and Class II milk (other than Class II A) prices adjusted, respectively, by the butterfat differentials provided in § 1008.52 (based on the butterfat test of such other source milk): *Provided,* That if the plant supplying such milk is located outside the marketing area and more than 50 miles from the City Hall, Spokane, Washington, the rate of payment per hundredweight of milk otherwise required by this subparagraph shall be reduced by the rate of location adjustment provided in § 1008.53 for the distance such plant is located from the City Hall, Spokane, Washington, but not to exceed $1.90 per hundredweight.

(6) Add the amount computed by multiplying the difference between the Class II price (§ 1008.51 (c)) for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1008.45 (b) (4) and (c) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1008.45 (b) (3) and (c) for the current month, whichever is less.

(b) The value of milk (except other order milk) of each handler at any plant where only other source milk was received and from which, during the month, some other source milk was disposed of in the marketing area as any item included in Class I milk pursuant to § 1008.41 (a) (1), (2), or (3) shall be a sum of money computed by the market administrator by multiplying the hundredweight of other source milk so disposed of by the difference between the Class I and Class II milk (other than Class II A) prices, adjusted by the butterfat differentials provided in § 1008.52 (based on the butterfat test of such other source milk), and by the same rate of location differential, if any, provided in paragraph (a) (5) of this section: *Provided,* That a producer-handler shall not be obligated for payments under this paragraph with respect to that portion of other source milk represented by his own farm production.

§ 1008.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1008.70 for all

handlers who made the reports prescribed in § 1008.30 and who made the payments pursuant to § 1008.84 for the preceding month;

(b) Add the aggregate of values of the location adjustments on base milk allowable pursuant to § 1008.81;

(c) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(d) Subtract, if the average butterfat content of the milk represented by the values included under paragraph (a) of this section is greater than 4 percent, or add, if such average butterfat content is less than 4 percent, an amount computed by multiplying the amount by which the average butterfat content of base and excess milk varies from 4 percent by the appropriate butterfat differentials computed pursuant to § 1008.82, and multiply the resulting figures by the respective hundredweights of base and excess milk;

(e) Multiply the hundredweight of excess milk by the Class II (other than Class II A) price for 4.0 percent milk;

(f) Compute the total value of base milk by subtracting the amount computed pursuant to paragraph (e) of this section from the net amount computed pursuant to paragraph (d) of this section: *Provided,* That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I milk price (for 4.0 percent milk) plus 4 cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(g) Divide the net amount obtained in paragraph (f) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 4.0 percent butterfat content; and

(h) Divide the sum of the amount obtained in paragraph (e) of this section and any amount subtracted pursuant to the proviso of paragraph (f) of this section by the hundredweight of excess milk, and subtract any fractional part of one cent. This result shall be known as the uniform price per hundredweight of excess milk of 4.0 percent butterfat content.

PAYMENTS

§ 1008.80 *Time and method of payment to producers and to cooperative associations.* (a) On or before the 17th day after the end of each month, each handler, including a cooperative association which is a handler, shall make payment to each producer, for milk received at his plant from such producer during such month pursuant to subparagraphs (1) and (2) of this paragraph: *Provided,* That such payment shall be made, upon request, to a cooperative association, or to its duly authorized agent, qualified under § 1008.5 with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 16th day after the end of such month: *And provided further,* That, if by such date such handler has not received full payment for such month pursuant to § 1008.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment 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 paragraph next following that on which such balance of payment is received from the market administrator.

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the location adjustment computed pursuant to § 1008.81 and by the butterfat differential computed pursuant to § 1008.82.

(2) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1008.82.

(b) On or before the 16th day after the end of each month each handler shall pay to each cooperative association which operates a pool plant for skim milk and butterfat received from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 1008.41) by the class price.

(c) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c (5) (F) of the act from making payment for milk to its producers in accordance with such provision of the act.

§ 1008.81 *Location adjustments to producers.* In making payment to producers pursuant to § 1008.80 for milk received at a pool plant to which the provisions of § 1008.53 apply, the uniform price per hundredweight for base milk shall be reduced at the same rate per hundredweight as is applicable to Class I milk at such plant pursuant to § 1008.53.

§ 1008.82 *Producer butterfat differential.* In making payments pursuant to § 1008.80 (a) for base milk and for excess milk, there shall be added to, or subtracted from, the uniform prices thereof for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, butterfat differentials computed by the market administrator as follows:

(a) The butterfat differential for base milk shall be computed by multiplying the butterfat differential for Class I milk by the percentage of the butterfat contained in base milk that is allocated to Class I, and by multiplying the remaining percentage of butterfat within base milk by the butterfat differential for Class II milk, adding together the resulting amounts, and rounding to the nearest tenth of a cent.

(b) The butterfat differential for excess milk shall be the same as the butterfat differential for Class II milk.

§ 1008.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to § 1008.84 and out of which he shall make all payments to handlers pursuant to § 1008.85.

§ 1008.84 *Payments to the producer-settlement fund.* (a) On or before the 14th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, whose obligation is computed pursuant to § 1008.70 (a) shall pay to the market administrator the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is greater than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a).

(b) Each handler (including any handler who may also have an obligation pursuant to paragraph (a) of this section) who disposes of milk as described in § 1008.70 (b) shall pay the amount computed for him pursuant to such paragraph.

§ 1008.85 *Payments out of the producer-settlement fund.* On or before the 15th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the total value of such handler's milk as determined pursuant to § 1008.70 is less than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 1008.80 (a), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1008.84, 1008.86, 1008.87, and 1008.88: *Provided,* That, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1008.86 *Adjustments of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 1008.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1008.80 (a), shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s), as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 14th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1008.80 (a) the amount per hundredweight of milk authorized by such producer and shall pay over, on or before the 16th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

§ 1008.88 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler, including any cooperative association which is a handler but not including a producer-handler, shall pay to the market administrator on or before the 14th day after the end of each month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (a) other source milk (except other order milk) classified as Class I milk, and (b) milk received from producers, including such handler's own production.

§ 1008.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money:

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

(1) The amount of obligation;

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

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

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

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this 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 claims was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1008.90 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1008.91.

§ 1008.91 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 1008.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part 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.

§ 1008.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expense of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1008.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1008.101 *Separability of provisions.* If any provision 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 20th day of September 1957 to be effective on and after October 1, 1957.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 57-7858; Filed, Sept. 24, 1957; 8:52 a. m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

PART 1104—AGRICULTURAL CONSERVATION; ALASKA

SUBPART—1958

The protection and conservation of the soil and water resources of farmlands is essential in order that these lands will continue to produce sufficient food and other raw materials to meet future needs. All people, not farmers alone, have a stake in, and a part of the responsibility for, protecting and conserving our farmlands. Recognizing this, the Congress appropriates funds to share with farmers

the cost of carrying out needed soil and water conservation measures. The Agricultural Conservation Program is a means of making this Federal cost-sharing available to farmers.

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DEFINITIONS

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

AUTHORITY: §§ 1104.700 to 1104.752 issued under sec. 4, 49 Stat. 164, as amended; 16 U. S. C. 590d. Interpret or apply secs. 7–17, 49 Stat. 1148, as amended, 71 Stat. 329; 16 U. S. C. 590g–590q.

INTRODUCTION

§ 1104.700 *Introduction.* (a) Through the 1958 Agricultural Conservation Program (referred to in this subpart as the "1958 program") administered by the Department of Agriculture, the Federal Government will share with Alaskan farmers the cost of carrying out approved conservation practices in accordance with the provisions of this subpart and such modifications thereof as may be made.

(b) The program contained in this subpart is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148; 16 U. S. C. 590g–509q), and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1958.

(c) Information about the practices and the exact specifications and rates of cost-sharing may be obtained from the county committees.

(d) The State Committee will allocate the funds available for conservation practices among the counties consistent with the needs for enduring conservation in the various counties and will give particular consideration to the furtherance of watershed programs sponsored by local people and organizations. A total of $54,000 will be available for program purposes exclusive of the amount set aside for administrative expenses and the increase in small Federal cost-shares in § 1104.729.

(e) A person may not receive more than $2,500 in Federal cost-shares under the 1958 program for approved practices not under pooling agreements. He may not receive more than $10,000 for all approved practices, including those under pooling agreements. This includes all farms, ranching units, and turpentine places owned or operated by him in Alaska, the continental United States, Hawaii, Puerto Rico, and the Virgin Islands.

GENERAL PROGRAM PRINCIPLES

§ 1104.701 *General program principles.* The 1958 Agricultural Conservation Program for Alaska has been developed and is to be carried out on the basis of the following general principles:

(a) The program contains broad authorities to help meet the varied soil and water conservation problems. County committees and participating agencies shall design a program for each county. Such programs should include any additional limitations and restrictions necessary for the maximum conservation accomplishment in the area. The programs should be confined to the soil and water conservation practices on which Federal cost-sharing is most needed in order to achieve the maximum conservation benefit in the county.

(b) The county programs should be designed to encourage those soil and water conservation practices which provide the most enduring conservation benefits practicably attainable in 1958 on the lands where they are to be applied.

(c) Costs will be shared with a farmer only on satisfactorily performed soil and water conservation practices for which Federal cost-sharing was requested by the farmer before the conservation work was begun.

(d) Costs should be shared only on soil and water conservation practices which it is believed farmers would not carry out to the needed extent without program assistance. In no event should costs be shared on practices except those which are over and above those farmers would be compelled to perform in order to secure a crop.

(e) The rates of cost-sharing in a county are to be the minimum required to result in substantially increased performance of needed soil and water conservation practices within the limits prescribed in the State program.

(f) The purpose of the program is to help achieve additional conservation on the land. Such of the available funds that cannot be wisely utilized for this purpose will be returned to the public treasury.

(g) If the Federal Government shares the cost of the initial application of soil and water conservation practices which farmers otherwise would not perform but which are essential to sound soil and water conservation, the farmers should assume responsibility for the upkeep and maintenance of those practices through their life span. Cost-shares are not applicable, after they are initially utilized, to undertake a practice during its normal life span unless the practice has failed to serve for its normal life span due to conditions beyond the control of the farm operator.

COUNTY AGRICULTURAL CONSERVATION PROGRAMS

§ 1104.702 *Developing the county program.* (a) County programs are to be developed in accordance with the provisions of the Alaska program and such modifications thereof as may be made. The county program should include any additional limitations and restrictions necessary for the maximum conservation

accomplishment in the area. It should be designed to encourage those conservation practices which provide the most enduring conservation benefits practicably attainable in 1958 on the lands where they are to be applied.

(b) The County ACP Development Group (County ASC Committee, including Extension Agent, SCS technician, and FS representative if available) will meet with the governing bodies of the local Soil Conservation Sub-Districts and the local Farmers Home Administration Supervisor to develop recommendations for the county program.

(c) The County ACP Development Group will then formulate the county program keeping in mind the overall conservation problems in the county and the work plans of the Sub-Districts and other agencies.

§ 1104.703 *Selection of practices.* Practices to be included in the county program shall be only those practices set forth in this subpart for which cost-sharing is essential to permit the performance of needed conservation work. Costs should be shared only on practices which it is believed farmers would not carry out without program assistance. Generally, practices that have become a part of regular farming operations in a particular county should not be eligible for cost-sharing.

§ 1104.704 *Adaptation of practices.* The practices in the county program must meet all conditions and requirements of the State program. Additional conditions and requirements may be included where necessary for effective use in meeting the conservation problems in the county. The rates of cost-sharing in a county are to be the minimum required to result in substantially increased performance of needed practices within the limits prescribed in the State program. The rates of cost-sharing for practices included in the county program may be lower than the rates of cost-sharing in this subpart.

§ 1104.705 *County program approval.* The County ACP Development Group will recommend their county program for approval to the State ACP Development Group (Alaska ASC Committee, including the Director of Extension, Soil Conservation Service Territorial Conservationist, and Forest Service Representative). The program recommendation must state that the program was developed in consultation with the local Sub-District governing bodies and be signed by the ASC county chairman, SCS technician, and representative of the Forest Service when present in the county.

§ 1104.706 *Responsibility for Technical Phases of Practices.* (a) The Soil Conservation Service is responsible for the technical phases of practices 1, 2, 3, 5, 6, 9, 10, 11, and 12 (§§ 1104.741 to 1104.743, 1104.745, 1104.746, and 1104.749 to 1104.752). This responsibility shall include (1) a finding that the practices are needed and practicable on the farm, (2) necessary site selection, other preliminary work, and layout work of the practice, (3) necessary supervision of the installation, and (4) certification of performance. In addition, upon agreement of the State Committee and the Soil Conservation Service State Conservationist, responsibility for all or part of the technical phases of other practices may be assigned to the Soil Conservation Service for any or all counties. The Soil Conservation Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities.

(b) The Forest Service is responsible for the technical phases of practice 8 (§ 1104.748). This responsibility shall include (1) providing necessary specialized technical assistance, (2) development of specifications for the practice, and (3) working through State and county committees, determining performance in meeting these specifications. The Forest Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities.

SPECIAL PROVISIONS

§ 1104.707 *Pooling agreements.* Farmers in any local area may agree in writing, with the approval of the county committee, to work together to perform practices which, by conserving or improving the agricultural resources of the community, will solve a mutual conservation problem on the farms of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms of the persons who performed the practices. Additional information about pooling agreements is available in Instruction ACP–5 (Alaska).

§ 1104.708 *Purchase orders*—(a) *Availability.* Part or all of the Federal cost-share for an approved practice may be in the form of a purchase order for materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government, as indicated by the register of indebtedness maintained in the office of the county committee, except in those cases where the agency to which the debt is owed waives its rights to setoff in order to permit the furnishing of materials or services. Title to any material furnished through the program shall vest in the Federal Government until the material is applied or planted, or all charges for the material are satisfied.

(b) *Cost to farmer.* The farmer will pay that part of the cost of the material or service which is in excess of the Federal cost-share attributable to the use of the material or service, except that for practice 5 (§ 1104.745) the county committee may advance to the farmer the total cost-shares he will earn at the time the heavy clearing is accomplished. However, the farmer must complete the practice by breaking the land to earn the payment. If the farmer fails to complete the practice, the money advanced becomes a debt to the Government.

(c) *Discharge of responsibility for materials and services.* The person to whom a material or service is furnished by purchase order under the 1958 program will be relieved of responsibility for the material or service when the county committee determines that (1) the material or service was used for the purpose for which it was furnished, and (2) the practice is completed so that it is eligible for payment. If a person uses any material or service for any purpose other than that for which it was furnished, he shall be indebted to the Federal Government for that part of the cost borne by the Federal Government and shall pay such amount to the Treasurer of the United States direct or by withholdings from Federal cost-shares otherwise due him under the program. Any person to whom materials are furnished shall be responsible for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material, or be retained by the person for use in a subsequent program year.

APPLICATIONS AND APPROVALS

§ 1104.711 *Eligibility.* (a) The program is applicable to (1) privately owned lands; (2) lands owned by Alaska or a political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States; (4) lands temporarily owned by the United States or a corporation wholly owned by it which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) noncropland owned by the United States for performance by private persons of conservation practices which directly conserve or benefit nearby or adjoining privately owned lands of such persons. These persons must maintain and use such federally owned noncropland under agreement with the Federal agency having jurisdiction thereof.

(b) The program is not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) noncropland owned by the United States which was acquired or reserved for conservation purposes, or which is to be retained permanently under Government ownership, including, but not limited to (i) grazing lands administered by the Forest Service of the United States Department of Agriculture, (ii) grazing lands administered by the Bureau of Land Management of the United States Department of the Interior, and (iii) lands administered by the Fish and Wildlife Service of the United States Department of the Interior, except as indicated in paragraph (a) (6) of this section; and (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it.

§ 1104.712 *Applications.* Each farmer shall be given an opportunity to request Federal cost-sharing for those practices

on which he considers he needs such assistance to perform them on his farm. Individual farmers should be encouraged to utilize cost-sharing for only those practices which have not become a part of regular farming operations on their farms. Costs will be shared only for those practices, or components of practices, for which cost-sharing is requested before performance is started. A request for cost-sharing under the 1957 program may be regarded as meeting this requirement of the 1958 program if (a) approval was given under the 1957 program, (b) performance was started but not completed during the 1957 program year, and (c) the county committee believes the extension of the approval to the 1958 program is justified under the 1958 program regulations and provisions.

§ 1104.713 *Approvals.* Each request for cost-sharing will be considered by the county committee in the light of (a) the program principles in § 1104.701, (b) the conservation problems in the county, the conservation work most needed in 1958, and the county allocation of program funds, and (c) the conservation problems of the individual farm and any conservation plan developed by the farmer and any State or Federal agency. The county committee will issue notices of approval showing, for each practice, the units approved and the cost-share for performing those units. Notices of practices approved should be issued before the farmer begins the practice. No practice may be approved for cost-sharing except as authorized by the State or county program, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a farm or acreage-quota basis, but shall be directed to the accomplishment of the most enduring conservation benefits attainable.

§ 1104.714 *Limitations of the program*—(a) *Initial establishment or installation of practices.* Cost-sharing may be authorized under the 1958 program only for the initial establishment or installation of the practices contained in this subpart. The initial establishment or installation of a practice, for the purposes of the 1958 program, shall be deemed to include the replacement, enlargement, or restoration of practices for which cost-sharing was allowed under a previous program, if all of the following conditions exist:

(1) Replacement, enlargement, or restoration of the practice is needed to meet the conservation problem.

(2) The failure of the original practice was not due to the lack of proper maintenance by the current operator.

(3) The county committee believes the replacement, enlargement, or restoration of the practice merits consideration under the program to an equal extent with similar practices for which cost-sharing for initial establishment is requested.

(b) *Repair, upkeep, and maintenance of practices.* Federal cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

PRACTICE COMPLETION REQUIREMENTS

§ 1104.717 *Completion of practices.* The farmer must complete each practice in accordance with all applicable specifications and program provisions to earn payment. Purchase orders represent an advance to the farmer before he completes the practice, but he must complete the practice to earn the money advanced. Except as provided in §§ 1104.718, 1104.719, and 1104.720 the farmer must complete the practice during the program year in order to be eligible for a payment.

§ 1104.718 *Practices substantially completed during the program year.* Approved practices may be deemed, for purposes of payment of cost-shares, to have been carried out during the 1958 program year if the county committee determines that they are substantially completed by the end of the program year. However, no cost-shares for such practices shall be paid until they have been completed in accordance with all applicable specifications and program provisions, except as provided in § 1104.719.

§ 1104.719 *Practices requiring more than one program year for completion.* Cost-shares approved under the 1958 program will not be considered as earned until all components of the approved practices are completed in accordance with all applicable specifications and program provisions. Cost-shares for completed components of a practice may be paid only after the practice is substantially completed, and only on the condition that the farmer will complete the remaining components of the practice within a reasonable time prescribed by the county committee, unless prevented from doing so for reasons beyond his control and regardless of whether cost-sharing therefor is offered, or refund the cost-shares paid him. If an approved practice is not substantially completed by the end of the 1958 program year, the practice may be considered for reapproval under the 1959 program. For practice 5 (§ 1101.745) the completion of the bulldozing or other heavy clearing operation will be considered as substantial completion of the practice.

§ 1104.720 *Practices involving the establishment or improvement of vegetative cover.* Costs for practices involving the establishment or improvement of vegetative cover, including trees, may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State Committee, that the practice was carried out in a manner which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded or replanted or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

PAYMENTS

§ 1104.723 *Availability of funds.* (a) The provisions of the 1958 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact. Paying of the Federal cost-shares provided in this subpart is contingent upon such appropriation as the Congress may hereafter provide for such purpose. The amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation. The funds provided for the 1958 program will not be available for paying Federal cost-shares for which applications are filed in the county office after December 31, 1959.

§ 1104.724 *Eligibility for payment.* Any person who, as landlord, tenant, or sharecropper on a farm, bore a part of the cost of an approved conservation practice is eligible to file an application for payment of the Federal cost-share due him.

§ 1104.725 *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any person, any Federal share of the cost due him shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP–122, as amended (Part 1108 of this chapter).

§ 1104.726 *Practices carried out with State or Federal aid.* Where a Federal or Territorial agency contributed toward the cost of a practice, the county committee, when computing the cost-shares, will reduce the total cost of the practice by the percentage of the total cost of the items of performance on which costs are shared which was furnished by the Federal or Territorial agency. Materials or services furnished by purchase order through this program shall not be regarded as State or Federal aid for the purposes of this section.

§ 1104.727 *Division of payments.* Cost-shares attributable to the use of conservation materials or services shall be credited to the person to whom the materials or services are furnished. Cost-shares shall be credited to the person who carried out the practices by which they were earned. If more than one person contributed, the cost-share shall be divided among such persons in the proportion that the county committee determines they contributed to carrying out the practices. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward carrying out the practice and shall assume that each contributed equally unless it is established to their statisfaction that the contributions were not in equal proportion. Furnishing land or the right to use water is not a contribution to carrying out any practice.

§ 1104.728 *Filing applications for payment.* (a) Each person participating in the program is responsible for submitting the forms and information needed to establish the extent of performance of approved practices and compliance with applicable program provisions.

(b) The county committee will establish time limits for submission of performance reports and allied information for efficient administration of the program. The county committee will notify each farmer, in his notice of approval, of the time by which he must report performance. Exceptions to time limits may be made in cases where failure to submit the required forms and information within the applicable time limit is due to reasons beyond the control of the farmer.

(c) Payment of Federal cost-shares will be made only upon application submitted on Form ACP–245 by December 31, 1959, or such earlier date as may be prescribed. Any application may be rejected if any form or information required of the applicant is not submitted to the county office within the applicable time limit.

§ 1104.729 *Appeals.* Any person may request the county committee to reconsider its recommendation or determination in any matter affecting the right to or amount of his Federal cost-shares. This appeal must be in writing and must be made within 15 days after the notice of the action he wishes to appeal is forwarded to or made available to him. The county committee shall notify him of its decision in writing within 15 days after receipt of the written request for reconsideration. If the person is dissatisfied with the decision of the county committee, he may appeal to the State Committee. Again, the appeal must be in writing and within 15 days after the decision is forwarded to or made available to him. The State Committee shall notify him of its decision within 30 days after the submission of the appeal. Written notice of any decision rendered under this section by the county or State committee shall also be issued to each other landlord, tenant, or sharecropper on the farm who may be adversely affected by the decision. If he is dissatisfied with the decision of the State Committee, he may request the Administrator, ACPS, to review the decision of the State Committee. Again, he must make this request in writing within 15 days after the State Committee decision is forwarded to or made available to him. The decision of the Administrator, ACPS, shall be final.

§ 1104.730 *Increase in small Federal cost-shares.* The Federal cost-shares computed for any person with respect to any farm shall be increased as follows: *Provided, however,* That in the event legislation is enacted which repeals or amends the authority for making such increases, the Secretary may, in such manner and at such time as is consistent with such legislation, discontinue such increases:

(a) Any Federal cost-share amounting to $0.71 or less shall be increased to $1.00.

(b) Any Federal cost-share amounting to more than $0.71, but less than $1.00, shall be increased by 40 percent.

(c) Any Federal cost-share amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed:	*Increase in cost-share*
$1.00 to $1.99	$0.40
$2.00 to $2.99	.80
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.99	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	[1]
$200.00 and over	[2]

[1] Increase to $200.00.
[2] No increase.

GENERAL PROVISIONS RELATING TO PAYMENTS

§ 1104.731 *Compliance with regulatory measures.* Persons who carry out conservation practices under the 1958 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws or regulations.

§ 1104.732 *Maintenance of practices.* The sharing of costs, by the Federal Government, for the performance of approved conservation practices on any farm under the 1958 program will be subject to the condition that the person with whom the costs are shared will maintain such practices throughout their normal life span in accordance with good farming practices as long as the land on which they are carried out is under his control.

§ 1104.733 *Forbidden actions or practices*—(a) *Practices defeating purposes of programs.* If the county committee finds, with the concurrence of the State Committee, that any person has adopted or participated in any practice which tends to defeat the purposes of the 1958 or any previous program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out under a previous program, it may withhold, or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1958 program.

(b) *Depriving others of Federal cost-shares.* If the State Committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the Federal cost-share due that person under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the Federal cost-share which otherwise would be due him under the 1958 program.

(c) *Filing of false claims.* If the State Committee finds that any person has knowingly filed claim for payment of the Federal cost-share under the program for practices not carried out, or for practices carried out in such a manner that they do not meet the required specifications therefor, such person shall not be eligible for any Federal cost-share under the 1958 program and shall refund all amounts that may have been paid to him under the 1958 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

(d) *Misuse of purchase orders.* If the State Committee finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued, and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any Federal cost-share under the 1958 program and shall refund all amounts that may have been paid to him under the 1958 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

(e) *Evasion of maximum cost-share limitation.* All or any part of any Federal cost-share which otherwise would be due any person under the 1958 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device,

including the dissolution, reorganization, revival, formation or use of any corporation, partnership, estate, trust, or any other means designed, to evade, or which has the effect of evading the provisions of § 1104.700 (e).

§ 1104.734 *Federal cost-shares not subject to claims.* Any Federal cost-share, or portion thereof, due any person shall be determined and allowed (a) without regard to questions of title under State law; (b) without deduction of claims for advances (except as provided in § 1104.735, and except for indebtedness to the United States subject to setoff under orders issued by the Secretary (Part 1109 of this chapter)); and (c) without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 1104.735 *Assignments.* Any person who may be entitled to any Federal cost-share under the 1958 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1958, including the carrying out of soil and water conservation practices. No assignment will be recognized unless it is made in writing on Form ACP–69 and in accordance with the regulations issued by the Secretary (Part 1110 of this chapter).

DEFINITIONS

§ 1104.738 *Definitions.* For the purposes of the 1958 program:

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

(b) "Administrator, ACPS," means the Administrator of the Agricultural Conservation Program Service.

(c) "State" means Alaska.

(d) "State Committee" means the persons designated by the Secretary as the Agricultural Stabilization and Conservation State Committee.

(e) "State ACP Development Group" means the State ASC Committee, including the Director of Extension, the SCS Territorial Conservationist, and the Forest Service Representative.

(f) "County" refers to any of the three areas designated as "counties" by the State Committee. Fairbanks County is the Second and Fourth Judicial Districts. Homer County is the Kenai Peninsula and Kodiak Island. Palmer County is the First and Third Judicial Districts exclusive of Homer County.

(g) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county committees.

(h) "County ACP Development Group" means the County ASC Committee, including the District Extension Agent, the SCS technician, and the Forest Service representative when available.

(i) "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) that, as landlord, tenant, or sharecropper, participates in the operation of a farm.

(j) "Farm" means (1) all adjoining or nearby and easily accessible farm, wood, or range land under the same ownership which is operated by one person, and (2) all additional farm, wood, or range land under different ownership operated by such person which the county committee determines (i) is nearby and easily accessible, (ii) is approximately equally productive, and (iii) for the past 2 years has been operated by such person and will be so operated during the current year, or has been operated by such person for 1 year with proof satisfactory to the county committee that it will be operated by such person for at least 2 more years. Notwithstanding the conditions set forth in subparagraphs (1) and (2) of this paragraph, fields and subdivisions of fields which are part of a farm shall remain a part of such farm when operated under a short term agreement by another operator, unless and until such fields or subdivisions of fields may be properly constituted as a separate farm or part of another farm under this definition. Land which is properly constituted as a farm shall not be reconstituted when a change of farm operators is the only basis for such action.

(k) "Cropland" means farmland which in 1957 was tilled or was in regular crop rotation, including also land which was established in permanent vegetative cover, other than trees, since 1953 and which was classified as cropland at the time of seeding, but excluding (1) bearing orchards and vineyards (except the acreage of cropland therein), (2) plowable noncrop open pasture, and (3) any land which constitutes, or will constitute if tillage is continued, an erosion hazard to the community.

(l) "Program year" means the period during which conservation practices, or components thereof, must be carried out to be eligible for cost-sharing. The program year begins on September 1, 1957, and continues through December 31, 1958.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

§ 1104.741 *Practice 1: Diversion ditches to divert excess water to protected outlets*—(a) *Purpose.* These ditches are for the purpose of removing excess water from snow melting in the spring, or from seeps, springs, or other ground water, to protect cropland or potential cropland below.

(b) *Requirements.* In all cases the ditches must be staked by a qualified technician. Capacities will depend on the area draining to each ditch. Diversion ditches must be provided with a proper outlet such as a sodded waterway (see practice 2 (§ 1104.742)).

(c) *Additional recommendations.* Diversion ditches should be constructed on a grade ranging from 0 at the upper end to not in excess of 1 percent at the lower end. Grades should be either uniform or gradually increasing from the upper end. Side slopes normally should not be steeper than 1 foot vertical to 3 feet horizontal.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Diversion Ditches.

Maximum Federal cost-share. 50 percent of the cost.

§ 1104.742 *Practice 2: Establishing permanent sod waterways to dispose of excess water without causing erosion*—(a) *Purpose.* Sod waterways are essential to adequate water disposal on steep land. The waterway may be either an excavated ditch or a natural drainageway. In either case more than natural runoff is carried in the outlet channel; therefore, protection is needed to avoid the formation of gullies.

(b) *Requirements.* In all cases the outlet channels will be selected by a qualified technician. New channels must be staked and constructed according to lines and grades. Sod must be established. Sod waterways must be seeded long enough in advance to develop a protective cover in the channel before water is diverted into them. Seedings in established permanent sod waterways shall be at a rate of at least 15 pounds per acre and will contain not less than 50 percent of adapted sod-forming perennial grasses with the balance in other grasses. The seeding must be properly fertilized. The minimum application of commercial fertilizer on which cost-sharing is authorized shall, in each case, be determined on the basis of a current soil test or experiment station recommendations.

(c) *Additional recommendations.* A cereal nurse crop in conjunction with grass seeding should be used where desirable. Sod stripping may be used.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Permanent Sod Waterways.

Maximum Federal cost-share. (1) 50 percent of the cost of earth moving; and (2) 50 percent of the cost of grass seed, or sodding, and the minimum required application of commercial fertilizer.

§ 1104.743 *Practice 3: Constructing permanent open drainage systems to dispose of excess water*—(a) *Purpose.* Drainage systems are one or more drainage ditches for the purpose of removing excess water from agricultural land.

(b) *Requirements.* In all cases the system must be staked by a qualified technician. Cost-sharing is limited to construction or enlargement of permanent ditches and the structural work necessary to the proper functioning of the ditches. No cost-sharing will be allowed for cleaning or maintaining a ditch or for structures installed for crossings or the convenience of the operator. Due consideration shall be given to the maintenance of wildlife habitat.

(c) *Additional recommendations.* Cost-sharing may be authorized for clearing the necessary minimum width right-of-way and, where necessary for the effective operation of the drainage system, for the spreading of spoil banks. Ditching with dynamite is a satisfactory method in very wet areas.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Open Drainage Systems.

Maximum Federal cost-share. (1) 50 percent of the cost of necessary land clearing. (2) 50 percent of the cost of earth moving. (3) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1104.744 *Practice 4: Initial establishment or improvement of permanent grass or grass-legume cover for soil or watershed protection*—(a) *Purpose.* This practice is for the initial establishment or the initial improvement of a protective vegetative cover by seeding adapted varieties of perennial grasses and legumes on areas, including steep slopes, which will remain in such cover.

(b) *Requirements.* The seed must be adapted to local conditions and must be properly distributed over the area sown. A sufficient amount must be used to insure a good stand at maturity. Seeding on steep slopes must be at a rate on one and one-half times that for normal land conditions. Each county committee will establish seeding rates, mixtures, and varieties in line with experiment station recommendations for that area. Adequate fertilizer must be applied. The minimum application of commercial fertilizer on which cost-sharing is authorized shall, in each case, be determined on the basis of a current soil test or experiment station recommendations.

(c) *Additional recommendations.* The county committee may approve this practice as a "package practice" in that they can approve seeding and fertilizing the first year and will later approve a spring application of fertilizer early in the second year to insure establishment of a good turf. The requirements of § 1104.719 must be met. Farmers are urged to control weeds to obtain successful seedings.

(d) *Technical responsibility.* County ASC Committee.

(e) *Reference.* Practice Guide Sheet for Permanent Grass Cover.

Maximum Federal cost-share. 50 percent of the cost of seed and the minimum required application of commercial fertilizer.

§ 1104.745 *Practice 5: Clearing and breaking, or breaking land to permit land-use adjustments needed in establishing soil conserving cropping systems*—(a) *Purpose.* The conservation value of this practice is in getting sufficient cleared land on the farm so that good land management can be carried out on all parts of the farm.

(b) *Requirements.* To be eligible for land clearing, the farmer must own or be buying the farm, lease or rent the farm, or be homesteading. If he is homesteading, he must have completed the homestead cultivation requirements except in Homer County. In all cases the land to be cleared must be approved by a qualified technician. Methods of clearing which result in destruction of needed organic material disqualify the clearing for cost-sharing. Removal of mineral soil will be considered evidence of excessive removal of organic material. Needed conservation practices must be applied to land cleared under previous programs in order to qualify an applicant for cost-sharing for additional land clearing under this program. Clearing areas which will result in increased erosion will not qualify. Windbreaks and uncleared land along streams must be left when, in the opinion of the county committee and the SCS technician, such protective cover is necessary to control present or potential erosion. Land cleared under the 1958 program must be broken not later than the end of the following program year unless the farmer desires to be paid during the current program year only on the completed components of the practice (see § 1104.719).

(c) *Additional recommendations.* A farmer may spread the clearing and breaking operations over a period of years to take advantage of methods of progressively clearing, grubbing, and burning if he complies with the requirements of § 1104.719. If clearing will be accomplished during the program year and the breaking not later than the end of the following program year, the Government will advance the full 50 percent up to $40.00 per acre at the time the bulldozing or other heavy clearing operation is completed. The farmer actually earns this payment when he also completes the breaking operation and the land is ready for tillage.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Land Clearing.

Maximum Federal cost-share. (1) 50 percent of the cost but not in excess of $40 per acre when all operations will be completed by the end of the 1959 program year; or (2) 50 percent of the cost of each completed operation, but not in excess of $40 per acre for all operations, when the clearing and breaking are not all accomplished within 2 program years but spread over a period of years.

§ 1104.746 *Practice 6: Installation of facilities for sprinkler irrigation to provide vegetative cover for soil protection on rolling land*—(a) *Purpose.* This practice is applicable where primary use is for permanent grassland on rolling land.

(b) *Requirements.* The installation must be in accordance with written plans approved by the Soil Conservation Service technician and the county committee. The power unit must be of capacity adequate to supply uniform distribution. Nozzle openings shall be of a size to hold application rate within intake capacity of soils to be irrigated.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Sprinkler Irrigation.

Maximum Federal cost-share. 50 percent of the cost of pipe and fittings.

§ 1104.747 *Practice 7: Constructing or deepening wells for livestock water*—(a) *Purpose.* This practice is to help provide soil protection through the adoption or maintenance of livestock farming systems and increased acreages of permanent vegetative cover.

(b) *Requirements.* To be eligible for a livestock well, the farmer must own or be buying the farm, lease or rent the farm, or be homesteading. If he is homesteading, he must have completed the homestead cultivation requirements. The farmer must show that the well is necessary for establishing or maintaining livestock on the farm. Standards and requirements shall be established by the county committee. Even though the well may be constructed at the headquarters to prevent freezing during the winter months, it is not to be used primarily for household utility. The well and pumping equipment must be large enough to provide the minimum amount of water for the particular livestock enterprise. Adequate storage facilities must be provided and pumping equipment installed except for artesian wells.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* County ASC Committee.

(e) *Reference.* ACP Practice Guide Sheet for Livestock Wells.

Maximum Federal cost-share. 50 percent of the cost of drilling or deepening the well, and casing, including installation of the casing.

§ 1104.748 *Practice 8: Seeding, planting, or interplanting forest trees or shrubs or improvement of a stand of forest trees on farmland for purposes other than the prevention of wind or water erosion*—(a) *Purpose.* This practice includes (1) thinning, (2) pruning crop trees, (3) removing or killing competing or undesirable vegetation, and (4) seeding, planting, or interplanting desirable trees or shrubs.

(b) *Requirements.* Technical assistance shall be utilized as available. The area must be protected from fire. Seedlings must be protected from grazing and should be protected from browsing.

(c) *Technical responsibility.* Forest Service.

(d) *Additional recommendations.* None.

Maximum Federal cost-share. 50 percent of the cost, including land preparation.

§ 1104.749 *Practice 9: Planting or interplanting forest trees or shrubs on farmland to prevent wind or water erosion*—(a) *Purpose.* This practice includes the planting or interplanting of desirable trees or shrubs for the prevention of wind or water erosion (1) in windbreaks, (2) in shelterbelts, (3) along gullies, and (4) along streambanks.

(b) *Requirements.* Technical assistance shall be utilized as available. The area must be protected from fire. Seedlings must be protected from grazing and should be protected from browsing.

(c) *Technical responsibility.* Soil Conservation Service.

(d) *Additional recommendations.* None.

Maximum Federal cost-share. 50 percent of the cost, including land preparation.

§ 1104.750 *Practice 10: Developing springs or seeps for livestock water to encourage better grassland management*—(a) *Purpose.* This practice is to encourage better grassland management through providing water supplies for livestock.

(b) *Requirements.* Site selection must be approved by a qualified technician and plans must be approved by the Soil Conservation Service. The spring or developed seep must be protected

from livestock. Cutoff walls must be of impervious material. Water developed must be piped to a suitable utilization or storage structure. Appreciable use of this water for other than livestock shall be considered as defeating the purpose of this practice.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Developing Springs and Seeps.

Maximum Federal cost-share. (1) 50 percent of the cost of excavating earth, rock, and gravel.

(2) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1104.751 *Practice 11: Constructing or sealing dams, pits, or ponds for livestock and/or grassland irrigation water—*(a) *Purpose.* These dams, pits, or ponds are to store water to encourage better grassland management by (1) providing water for livestock, and/or (2) providing water for grassland irrigation (see practice 6 (§ 1104.745)).

(b) *Requirements.* Design and construction must conform to Soil Conservation Service specifications and be supervised by a qualified technician. Earth fills must be thoroughly compacted and core walls extend to semi-impervious material. Down-stream slopes shall be not less than 3 feet horizontal to 1 foot vertical. Up-stream slopes shall not be less than 4 feet horizontal to 1 foot vertical. Necessary fencing and seeding or sodding to protect the dam and pond must be accomplished. Dams shall have a spillway capacity adequate to carry off surplus water. The spillway must be designed by a qualified engineer. If used for livestock water, a suitable water trough must be installed with pipe from pond to trough. Appreciable use of this water source for other than livestock or grassland irrigation shall be considered as defeating the purpose of this practice.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Dams and Ponds.

Maximum Federal cost-share. (1) 50 percent of the cost of earth moving.

(2) 50 percent of the cost of materials in the permanent structure, excluding forms.

§ 1104.752 *Practice 12: Streambank protection, channel clearance, enlargement or realinement, or construction of levees or dikes, to prevent erosion or flood damage to farmland—*(a) *Purpose.* This practice is to prevent streambank erosion and flood damage to farmland.

(b) *Requirements.* Plans for each installation must be designed by a qualified technician and approved by the Soil Conservation Service and county committee. The Soil Conservation Service is responsible for laying out and supervising the installation. This practice shall not be approved in cases where there is a likelihood that it will create an erosion or flood hazard to other adjacent land.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* Soil Conservation Service.

(e) *Reference.* ACP Practice Guide Sheet for Streambank Protection.

Maximum Federal cost-share. 25 percent of the cost.

Done at Washington, D. C., this 20th day of September 1957.

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

[F. R. Doc. 57-7825; Filed, Sept. 24, 1957; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6775]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

SIBERIAN FUR SHOP, INC., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Stock, product or service; § 13.73 *Formal regulatory and statutory requirements:* Fur Products Labeling Act. Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act; § 13.1865 *Manufacture or preparation:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order; Siberian Fur Shop, Inc., et al., Greenfield, Mass., Docket 6775, August 7, 1957]

In the Matter of Siberian Fur Shop, Inc., a Corporation, and Abraham J. Levinsky, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Greenfield, Mass., with violating the Fur Products Labeling Act by advertising in newspapers and by radio which failed to disclose the names of animals producing certain furs and to state when furs were artificially colored, and which represented falsely that certain furs were "stock of a business in a state of liquidation"; and by failing in other respects to comply with the advertising, labeling, and invoicing requirements of the Act and to keep adequate records as a basis for comparative price and percentage savings claims.

Following approval of an agreement between the parties for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on August 7 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent, Siberian Fur Shop, Inc., a corporation, and its officers, and Abraham J. Levinsky individually and as an officer of said corporation and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

2. Setting forth on labels attached to fur products:

(a) Non-required information mingled with information that is required under section 4 (2) of the act and the rules and regulations thereunder;

(b) Information required under section 4 (2) of the act and the rules and regulations thereunder in abbreviated form or in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or other-

wise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoices;

(f) The name of the country of origin of any imported furs contained in the fur products.

2. Failing to set forth on invoices the item number of the fur product;

3. Setting forth on invoices information required under section 5 (b) (1) of the act and the rules and regulations thereunder in abbreviated form.

C. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Sets forth information required under section 5 (a) of the act and the rules and regulations thereunder in abbreviated form;

3. Represents that fur products are being offered for sale from stock of a business in a state of liquidation, when such is not the fact.

D. Making use of price reductions, comparative prices and percentage savings claims in advertising unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 29, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-7849; Filed, Sept. 24, 1957; 8:49 a. m.]

[Docket 6782]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

NUSSBAUM AND DONNENFELD, INC., ET AL.

Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order, Nussbaum and Donnenfeld, Inc., et al., New York, N. Y., Docket 6782, August 27, 1957]

In the Matter of Nussbaum and Donnenfeld, Inc., a Corporation, and Harry Nussbaum and Max Donnenfeld, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in New York City with violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements.

Following approval of an agreement between the parties containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on August 27 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Nussbaum and Donnenfeld, Inc., a corporation, and its officers, and Harry Nussbaum and Max Donnenfeld, individually and as officers of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution of any fur product which has been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur", and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

(g) The item numbers or marks assigned to the fur products as required under Rule 40 (a) of the rules and regulations;

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoices;

(f) The name of the country of origin of any imported furs contained in the fur product;

(g) The item numbers or marks assigned to fur products as required under Rule 40 (a) of the rules and regulations.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Nussbaum and Donnenfeld, Inc., a corporation, and Harry Nussbaum and Max Donnenfeld, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 27, 1957.

By the Commission.

[SEAL] JOHN R. HEIM, *Acting Secretary.*

[F. R. Doc. 57-7850; Filed, Sept. 24, 1957; 8:49 a. m.]

[Docket 6639]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

ARKANSAS CITY COOPERATIVE MILK ASSN., INC., ET AL.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended—* Price discrimination under 2 (a): § 13.715 *Charges and price differentials.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, Arkansas City Cooperative Milk Assn., Inc. (Arkansas City, Kans.), et al., Docket 6639, September 4, 1957]

In the Matter of Arkansas City Cooperative Milk Association, Inc., a Cooperative Marketing Association, its Officers, Directors and Members and Homer S. Call, Carl Fitzgerald, Ivan J. Scott, and John Weir, Jr., Individually and as Officers, Directors and Members and as Representative of the Entire Membership of Arkansas City Cooperative Milk Association, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a cooperative marketing association of some 2,000 dairy farmers in Kansas and Oklahoma with discriminating in price in the sale of fluid milk in violation of section 2 (a) of the Robinson-Patman Act by charging wholesale customers in Arkansas City prices ranging from 1¢ to 3¢ less per quart than those it charged their competitors—mostly retail grocers—throughout the rest of its territory, comprising a 50-mile radius of Arkansas City; and by reducing by 13¢ per gallon the price of milk it delivered to private homes; in which retail sale it was in competition with two local cash-and-carry dairies and with retail grocery stores.

Following approval of an agreement between the parties containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 4 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondent Arkansas City Cooperative Milk Association, Inc., a corporation, its officers, directors, representatives, agents, and employees, and Respondent Carl Fitzgerald, individually and as manager of Respondent Arkansas City Cooperative Milk Association, Inc., directly or through any corporate or other device, in connection with the sale of fluid milk in commerce as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in price by selling fluid milk of like grade and quality to any purchaser at a price which is lower than the price charged any other purchaser engaged in the same line of commerce:

(1) Where such lower price undercuts the price at which the purchaser charged the lower price may purchase fluid milk of like grade and quality from another seller; or

(2) Where any purchaser who does not receive the benefit of the lower price does in fact compete in the resale of such product with the purchaser who does receive the benefit of the lower price.

It is further ordered, That the complaint herein, insofar as it relates to Respondents Homer S. Call, Ivan J. Scott, and John Weir, Jr., be, and the same hereby is, dismissed as to them individually and as representative of the entire membership of Arkansas City Cooperative Milk Association, Inc.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Arkansas City Cooperative Milk Association, Inc., a corporation, and respondent Carl Fitzgerald, individually and as manager of respondent Arkansas City Cooperative Milk Association, Inc., shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

By the Commission.

Issued: September 4, 1957.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-7851; Filed, Sept. 24, 1957; 8:50 a. m.]

[Docket 6787]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

CARL CO. ET AL.

Subpart—*Acquiring confidential information unfairly:* § 13.1 *Acquiring confidential information unfairly.* Subpart—*Misrepresenting oneself and goods*—Business status, advantages or connections: § 13.1490 *Nature, in general.* Subpart—*Using misleading name*—Vendor: § 13.2425 *Nature, in general.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, The Carl Company et al., Lisbon, Ohio, Docket 6787, September 3, 1957]

In the Matter of The Carl Company, a Corporation, and Joyce L. Tuseck and Frank J. Tuseck Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging sellers in Lisbon, Ohio, on printed forms and other matter for use by creditors and collection agencies, with representing falsely on the forms that money was being held for persons concerning whom information was sought, and using the name "Meridian Reserve Fund" to describe their business; when in fact the only purpose served by the forms was to obtain information concerning debtors by subterfuge.

Following an agreement between the parties providing for entry of a consent order, the hearing examiner made his initial decision and order to cease and desist which became on Sept. 3 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent The Carl Company, a corporation, and its officers, and respondents Joyce L. Tuseck and Frank J. Tuseck, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale or distribution of forms, or other materials, for use in obtaining information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or placing in the hands of others for use, any forms, letters, questionnaires, or material printed or written, which do not clearly and expressly state that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

2. Using thereon the name "Meridian Reserve Fund" or using any other name of similar import to designate, describe, or refer to respondents' business.

3. Representing, or placing in the hands of others any means of representing, directly or by implication, that money is being held for persons concerning whom information is sought, or is collectible by such persons, unless money is in fact due and collectible by such persons and the amount of such money is accurately stated.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 3, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-7852; Filed, Sept. 24, 1957; 8:50 a. m.]

[Docket 6501]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

BENTON FURS

Subpart—*Advertising falsely or misleadingly:* Sec. 13.155 *Prices:* Retail or selling as wholesale, jobbing, factory distributors', etc., or discounted. Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order, Ben Cohen trading as Benton Furs, Los Angeles, Calif., Docket 6501, August 23, 1957]

In the Matter of Ben Cohen, an Individual Trading as Benton Furs

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Los Angeles, Calif., with violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements, by setting forth on invoices the name of an animal other than that producing the fur in certain products, and by advertising which falsely represented

prices of certain products as less than wholesale and which used illustrations depicting more valuable products than those on sale at the advertised prices.

Following respondent's answer and hearing, the hearing examiner filed his initial decision, sustaining certain of the charges and dismissing others for lack of jurisdiction or other proof, from which cross-appeals were filed. The Commission, granting the appeal of complaint counsel and denying that of respondent, on August 23 made its findings, conclusions, and order in lieu of the initial decision. The charge relating to misleading illustrations in advertising was dismissed.

It is ordered, That respondent Ben Cohen, an individual doing business as Benton Furs or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

(1) Failure to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(c) The name of the country of origin of any imported furs used in the fur products;

(d) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce.

(e) That the fur product consists of used or second-hand fur or furs, when such is the fact;

(f) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

(2) Setting forth on labels attached to fur products:

(a) Non-required information mingled with required information;

(b) Required information in abbreviated form.

(3) Failing to:

(a) Set forth on labels attached to fur products an item number or mark assigned to such products;

(b) Set forth on labels attached to fur products all required information on one side of such labels.

B. Falsely or deceptively invoicing fur products by:

(1) Failing to furnish invoice to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur products, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported furs contained in the fur products.

(2) Using on invoices the name or names of any animal or animals other than the name or names provided for in paragraph B (1) (a) above, or furnishing invoices which misrepresent the country of origin of imported furs contained in the fur product, or which contain any form of misrepresentation or deception, directly or by implication, with respect to such fur products.

(3) Setting forth on invoices pertaining to fur products, required information in abbreviated form.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, notice, or in any other manner which is intended to aid, promote or assist, directly or indirectly in the sale or offering for sale of fur products, and which represents, directly or by implication, that the price of any fur product is less than or equivalent to the wholesale price, when such is not the fact.

It is further ordered, That the charges of this proceeding relating to alleged violations of Rule 44 (f) be, and the same hereby are, dismissed.

It is further ordered, That respondent Ben Cohen shall, within sixty (60) days after service upon him of this order file with the Commission a report in writing setting forth in detail the manner and form in which he has complied therewith.

Issued: August 23, 1957.

By the Commission.[1]

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-7853; Filed, Sept. 24, 1957; 8:50 a. m.]

[Docket 6475]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

AZOME UTAH MINING CO., INC., ET AL.

Subpart—*Advertising falsely or misleading:* § 13.170 *Qualities or properties of product or service.*

[1] Commissioners Gwynne and Tait dissenting.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Azome Utah Mining Co., Inc. (Sterling, Utah), et al., Docket 6475, September 6, 1957]

In the Matter of Azome Utah Mining Company, Inc., a Corporation; Rollin J. Anderson, Alyce T. West and Elsie M. Anderson, Individually and as Officers of Said Corporation, and Donald K. Jensen and Sherman C. Anderson, Individually and as Directors of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging sellers in Sterling, Utah, with disseminating in commerce false advertising concerning the value and effectiveness of their "Azomite" product, a natural rock-like substance mined or collected from the surface of the land in central Utah and processed and sold by them for use in the feeding of poultry and other animals and also as a soil conditioner.

After the filing of respondents' answer, hearings, and submission of findings by both parties, the hearing examiner made his initial decision and order to cease and desist. Having placed this on its own docket for review, the Commission subsequently set it aside and in lieu thereof, on September 6, issued its own findings, conclusion, and order.

The order to cease and desist, including order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents, Azome Utah Mining Company, Inc., a corporation, and Rollin J. Anderson, Alyce T. West and Elsie M. Anderson, individually and as officers of said corporation, and Donald K. Jensen and Sherman C. Anderson, individually and as directors of said corporation, and the respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their product designated "Azomite," or any other product of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated, by means of the United States mails, or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said product, which advertisement represents, directly or by implication:

(a) That the addition of said product to poultry feed will supply poultry with needed minerals.

(b) That the use of said product will accelerate or increase the growth of poultry, stimulate the appetite, satisfy hidden hunger of poultry for minerals, lower the cost of production, increase egg production or increase profits.

(c) That the use of said product will reduce "picking" or cannibalism" in poultry.

2. Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondents, Azome Utah Mining Company, Inc., a corporation, and Rollin J. Anderson, Alyce T. West and Elsie M. Anderson, individually and as officers of said corporation, and Donald K. Jensen and Sherman C. Anderson, individually and as directors of said corporation, and the respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of the product "Azomite," or any other product of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from representing, directly or by implication:

1. That the addition of said product to the soil will keep the soil healthy or result in fewer insects on plants.

2. That the addition of said product to the soil will restore needed minerals to the soil, aid in growing plants on poor soil, or increase the resistance of plants to disease, unless such representations are limited to those cases in which the soil is deficient in the minerals contained in said product and said product is used in quantities sufficient to supply such deficiencies.

It is further ordered, That the aforesaid respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 6, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-7854; Filed, Sept. 24, 1957; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 20-4]

PART 20—PILOT AND INSTRUCTOR CERTIFICATES

ISSUANCE OF INSTRUMENT RATINGS BASED ON MILITARY COMPETENCE AND ISSUANCE OF ADDITIONAL CATEGORY RATINGS FOR PRIVATE AND COMMERCIAL PILOTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 19th day of September 1957.

Section 20.111 (c) of the recently revised Part 20 provides for the issuance of an instrument rating to any applicant who holds a currently effective military instrument card. When this revision was adopted by the Board, it was understood that the military requirements for the issuance of instrument cards were equivalent to those specified for the issuance of an instrument rating under the provisions of Part 20. However, experience with the administration of this section has revealed that some of the military services have issued instrument cards with limitations indicating that the holders are not authorized to exercise full instrument flight privileges. Accordingly, it is now considered necessary to amend the regulations to limit the acceptance of military instrument cards for the issuance of instrument ratings to persons holding military instrument cards which were issued on the basis of requirements at least equal to those standards prescribed for the issuance of an instrument rating under the provisions of this part.

The recently revised Part 20 relates the issuance of additional category ratings to the experience requirements for the original issuance of a pilot certificate with the category rating sought. Previously, the regulations required only that an applicant demonstrate competence in an aircraft of the category for which the rating is sought.

Correspondence has been received from a number of persons engaged in rotorcraft and glider flight training pointing out the adverse effect that the additional cost of securing an additional rating would have on most trainees. A re-examination of the new requirements indicates that they are reasonable with respect to applicants applying for the original issuance of pilot certificates but, when applied to a certificated pilot applying for an additional category rating, they do not appear to make sufficient allowance for the applicant's previous piloting experience and may impose an undue financial burden that is not fully justified in the interest of safety.

Interested persons have been afforded an opportunity to participate in the making of this amendment (22 F. R. 6251), and due consideration was given to all relevant matter presented.

In view of the foregoing, the Civil Aeronautics Board hereby amends Part 20 of the Civil Air Regulations (14 CFR Part 20, as amended) effective October 24, 1957.

1. By amending § 20.111 (c) by adding at the end thereof the phrase "if the standards under which the rating was issued are not less than those prescribed for the issuance of an instrument rating under this part."

2. By amending § 20.121 (a) to read as follows:

§ 20.121 *Additional aircraft ratings.*
* * *

(a) *Category rating.* (1) A pilot holding an airplane category rating who applies for a rotorcraft category rating shall have acquired at least 25 hours of dual instruction and solo flight time in rotorcraft, 5 of which shall have been solo, and shall pass an appropriate flight test.

(2) A pilot holding an airplane or rotorcraft category rating who applies for a glider category rating shall have acquired at least 2 hours of dual instruction and solo flight time in gliders which shall include at least 10 solo glider flights in which 360° right and left approaches have been made, and shall pass an appropriate flight test.

(3) A pilot holding a glider category rating who applies for an airplane or rotorcraft rating shall meet all the requirements for the original issuance of such category rating and shall pass an appropriate flight test.

(4) A pilot holding a rotorcraft category rating who applies for an airplane category rating shall have acquired the total flight time required for the original issuance of such category rating, shall have acquired at least 5 hours of solo flight time in airplanes, and shall pass an appropriate flight test.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 602, 610, 52 Stat. 1008, 1012, as amended; 49 U. S. C. 552, 560)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 57-7855; Filed, Sept. 24, 1957; 8:51 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 209]

PART 608—RESTRICTED AREAS

The restricted area alteration appearing in Item 2, § 608.12 in Amendment 206 and published in the FEDERAL REGISTER on September 11, 1957 in 22 F. R. 7225 is hereby corrected to read: "* * * R-382 formerly D-382" instead of: "R-284 formerly D-284".

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

This correction shall become effective upon publication in the FEDERAL REGISTER.

WILLIAM B. DAVIS, *Acting Administrator of Civil Aeronautics.*

SEPTEMBER 18, 1957.

[F. R. Doc. 57-7829; Filed, Sept. 24, 1957; 8:46 a. m.]

[Amdt. 208]

PART 608—RESTRICTED AREAS

TOMALES POINT, CALIF.; ALTERATION

The restricted area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Panel and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

Section 608.14, the Tomales Point, California, area (R-519), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Tomales Point, Calif., restricted area (R-519) (Sacramento).	"Beginning at latitude 38°13'36", longitude 122°59'51"; thence to latitude 38°13'09", longitude 123°01'07"; thence to latitude 38°12'00", longitude 123°01'07"; thence to latitude 38°10'22", longitude 123°00'52"; thence to latitude 38°08'50", longitude 122°59'11"; thence to latitude 38°09'11", longitude 122°58'07"; thence to latitude 38°10'31", longitude 122°58'16"; thence to point of beginning".	3,000 feet mean sea level.	0800 to 1600 Monday through Friday. NOTE: All operations to be limited to VFR conditions.	Commander, Naval Air Bases, 12th ND, Alameda, Calif.

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

This amendment shall become effective on October 24, 1957.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

SEPTEMBER 18, 1957.

[F. R. Doc. 57-7828; Filed, Sept. 24, 1957; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter C—Personnel

PART 716—DEATH GRATUITY

1. Part 716 is revised to read as follows:

Subpart A—Provisions Applicable to the Navy and the Marine Corps

Sec.
716.1 Principal rule
716.2 Definitions
716.3 Special situations
716.4 Eligible survivors
716.5 Delegation of authority
716.6 Death occurring after active service
716.7 Payments excluded

Subpart B—Provisions Applicable to the Navy

716.8 Procedure
716.9 Forms

Subpart C—Provisions Applicable to the Marine Corps

716.10 Procedure
716.11 Forms

AUTHORITY: §§ 716.1 to 716.11 issued under R. S. 161, secs. 301–304, 70 Stat. 868; 5 U. S. C. 22, 38 U. S. C. 1131–1134. Interpret or apply sec. 102, 70 Stat. 858, as amended; 38 U. S. C. 1101.

SUBPART A—PROVISIONS APPLICABLE TO THE NAVY AND THE MARINE CORPS

§ 716.1 *Principal rule.* Under section 301 of the Servicemen's and Veterans' Survivor Benefits Act (38 U. S. C. 1131), the Secretary of the Navy shall have a death gratuity paid immediately upon official notification of the death of a member of the naval service who dies while on active duty, active duty for training, or inactive duty training. The death gratuity shall equal six months' basic pay (plus special and incentive pay) at the rate to which the deceased member was entitled on the date of his death but shall not be less than $800 nor more than $3,000.

§ 716.2 *Definitions.* For the purposes of this part, terms are defined as follows:

(a) *Member of the naval service.* This term includes:

(1) A person appointed, enlisted, or inducted into the Regular Navy, Regular Marine Corps, Naval Reserve or Marine Corps Reserve, and includes a midshipman at the United States Naval Academy;

(2) Enlisted members of the Fleet Reserve and Fleet Marine Corps Reserve;

(3) A member of the Naval Reserve Officers Training Corps when ordered to annual training duty for 14 days or more, and while performing authorized travel to and from that duty; and

(4) Any person while en route to or from, or at, a place for final acceptance for entry upon active duty in the military or naval service:

(i) Who has been provisionally accepted for such duty; or

(ii) Who, under the Universal Military Training and Service Act (50 U. S. C. App. 451 et seq.), has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

(b) *Active duty.* This term is defined as (1) full-time duty performed by a member of the naval service, other than active duty for training, or (2) as a midshipman at the United States Naval Academy, and (3) authorized travel to or from such duty or service.

(c) *Active duty for training.* Such term means:

(1) Full-time duty performed by a member of a Reserve component of the naval service for training purposes;

(2) Annual training duty performed for a period of 14 days or more by a member of the Naval Reserve Officers Training Corps; and

(3) Authorized travel to or from such duty.

(d) *Inactive-duty training.* Such term is defined as any of the training, instruction, appropriate duties, or equivalent training, instruction, duty, appropriate duties, or hazardous duty performed with or without compensation by a member of a Reserve component prescribed by the Secretary of the Navy pursuant to section 501 of the Career Compensation Act of 1949 (37 U. S. C. 301) or any other provision of law. The term does not include:

(1) Work or study performed by a member of a Reserve component in connection with correspondence courses in which he is enrolled, or

(2) Attendance at an educational institution in an inactive status under the sponsorship of the Navy or Marine Corps.

§ 716.3 *Special situations*—(a) *Service without pay.* Any member of a Reserve component who performs active duty, active duty for training, or inactive-duty training without pay shall, for purposes of a death gratuity payment, be considered as being entitled to basic pay while performing such duties.

(b) *Death occurring while traveling to and from active duty for training and inactive-duty training.* Any member of a Reserve component who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive-duty training and who dies from an injury incurred on or after January 1, 1957 while proceeding directly to or directly from such active duty for training or inactive-duty training, shall be deemed to have been on active duty for training or inactive-duty training, as the case may be.

(c) *Hospitalization.* In the case of a member of a Reserve component who suffers disability while on active duty, active duty for training, or inactive-duty training, and who is placed in a pay status while he is receiving hospitalization or medical care (including out-patient care) for such disability, shall be deemed, for the purposes of the payment of a death gratuity, to continue on active duty, active duty for training, or inactive-duty training, as the case may be, for so long as he remains in a pay status.

§ 716.4 *Eligible survivors.* (a) The death gratuity shall be paid to or for the living survivor or survivors of the deceased member first listed below:

(1) The lawful spouse. (For purpose of this part, a man or woman shall be considered to be the spouse if legally married to the member at the time of the member's death.)

(2) His children (without regard to their age or marital status) in equal shares.

(3) Parent(s), brother(s) or sister(s), or any combination of them, when designated by the deceased member.

(4) Undesignated parents in equal shares.

(5) Undesignated brothers and sisters in equal shares.

In subparagraphs (2), (3) and (4), respectively, of this paragraph, the terms "child" and "parent" have the meanings assigned to them by section 101 of the Veterans' Benefits Act of 1957 (71 Stat. 89); the terms "brother" and "sister" in subparagraphs (3) and (5) of this paragraph include brothers and sisters of the half blood and those through adoption.

(b) *Designation of payee by service member.* Where the service member has designated a beneficiary and is not survived by a spouse, child, or children, the payment will be made to the specific person designated by him provided the designee falls within the class of beneficiaries permitted as set forth in paragraph (a) (3) of this section.

(c) *Death of survivor prior to receipt of gratuity.* If a survivor dies before receiving payment, such amount shall be paid to the then living survivor or survivors listed under paragraph (a) of this section.

(d) *Application.* The payee will be required to execute a death gratuity application.

§ 716.5 *Delegation of authority.* (a) Pursuant to the authority contained in section 302 of the Servicemen's and Veterans' Survivor Benefits Act (38 U. S. C. 1132), as to deaths described under the provisions of section 301 thereof (38 U. S. C. 1131), the Secretary of the Navy has delegated to commanding officers of naval commands, installations, or districts, with respect to naval personnel, and to Marine Corps commanding generals and officers in command of regiments, battalions or equivalent units and of separate or detached commands who have custody of service records, with respect to Marine Corps personnel, authority to certify for the payment of death gratuity the lawful spouse or designated beneficiary(ies) of the deceased service member who was residing with him at or near his place of duty at the time of his death, except in cases in which a doubt may exist as to the identity of the legal beneficiary. Disbursing officers are authorized to make payment of the death gratuity upon receipt of certification from the Commanding Officer.

(b) The Secretary of the Navy has delegated authority to the Chief of Naval Personnel (Pers G–2) as to naval personnel, and to the Commandant of the Marine Corps (DN) as to Marine Corps personnel, the authority to certify the beneficiary(ies) for receipt of payment of death gratuity in all appropriate cases of payment of death gratuity under the Servicemen's and Veterans' Survivor Benefits Act, including, but not limited to: (1) Cases in which a doubt may exist as to the identity of the legal beneficiary; and (2) cases in which the widow or designated beneficiary(ies) of the deceased service member was not residing with him at or near his place of duty at the time of his death.

§ 716.6 *Death occurring after active service.* (a) Under section 303 of the Servicemen's and Veterans Survivor Benefits Act (38 U. S. C. 1133), the death gratuity will be paid in any case where a member or former member dies on or after January 1, 1957, during the 120-day period which begins on the day following the date of his discharge or release from active duty, active duty for training, or inactive duty training, if the Administrator of Veterans' Affairs determined that the death resulted from

(1) Disease or injury incurred or aggravated while on such active duty or active duty for training; or

(2) Injury incurred or aggravated while on such inactive duty training.

(b) For purposes of computing the amount of the death gratuity in such instances, the deceased person shall be deemed to be entitled on the date of his death to basic pay (plus special and incentive pay) at the rate to which he was entitled on the last day he performed such active duty, active duty for training, or inactive duty training.

§ 716.7 *Payments excluded.* (a) No payment shall be made if the deceased member suffered death as a result of lawful punishment for a crime or for a military or naval offense, except when death was so inflicted by any hostile force with which the Armed Forces of the United States have engaged in armed conflict.

(b) No payment will be made to a survivor implicated in the homicide of the deceased in the absence of evidence clearly absolving such survivor.

SUBPART B—PROVISIONS APPLICABLE TO THE NAVY

§ 716.8 *Procedure*—(a) *Application by survivor.* The payee will be required to execute the application set out in § 716.9 (c).

(b) *Cross-servicing procedure.* (1) If the pay records of a Navy command are being regularly maintained by a disbursing officer of another of the armed services, the Navy commanding officer may, in the event of a death within his command, execute and forward the certification set out in § 716.9 (a) and (b), as applicable, to that officer for payment. The Navy command will cooperate with that disbursing officer in obtaining the required application of survivor set out in § 716.9 (c) and in delivering the check to his beneficiary.

(2) Conversely, Navy disbursing officers regularly maintaining the pay records of a command of another of the armed services are being authorized to make payments of death gratuity on behalf of that command.

(3) Navy commanding officers are not authorized to make a determination of eligible survivor for a member of the Marine Corps or of another of the armed services regardless of the duty assignment of that member or the availability of the member's service or pay records.

(4) In the event of the death of a member of the Marine Corps or of another armed service on duty with or attached to a naval activity, the Navy commanding officer will immediately send a dispatch notification of death to the Adjutant General, Headquarters, U. S. Army, the Air Adjutant General, Headquarters, U. S. Air Force, the Commandant of the Marine Corps, Code DN, or the Commandant, U. S. Coast Guard, as the case may be. The member's service record, if available, will be immediately forwarded to the same address. The commanding officer will also notify the disbursing officer of the death so that he may forward the member's pay record, if available, to the appropriate finance center or headquarters.

§ 716.9 *Forms.* Certification of eligible survivors by the commanding officers will be prepared as indicated in paragraphs (a) or (b) of this section, as applicable. See § 716.8 (a) for preparation of the form set out in paragraph (c) of this section.

(a) *Certification of commanding officer for spouse.*

SAMPLE

[Letterhead]

Date _____

From: Commanding Officer
To: Disbursing Officer

Subj: Certification of Next of Kin of deceased active duty personnel for payment of Six-Month Death Gratuity

Ref: (a) Title III, Servicemen's and Veterans' Survivor Benefits Act, Public Law 881, 84th Congress

1. A determination has been made and this is to certify that _____, (Name) _____ is the lawful spouse (Address) of _____ (Name) _____ (Rate/rank) _____, deceased, who died (Service/file number) _____ while on _____ (Date) _____ (Active duty) _____ (Active duty for training) _____ (Inactive duty training)

2. _____, as the lawful spouse (Name) is entitled to receive the Six-Month Death Gratuity payable in accordance with the provisions of reference (a).

From: Disbursing Officer
To: Commanding Officer

Date _____

1. Payment to the individual named above has been made on _____ and information regarding the payment entered on the deceased service member's pay record. Notification of payment hereon is made by a signed copy of the original. (Date)

(b) *Certification of commanding officer for designated beneficiary.*

SAMPLE

[Letterhead]

From: Commanding Officer
To: Disbursing Officer
Subj: Certification of Next of Kin of deceased active duty personnel for payment of Six-Month Death Gratuity
Ref: (a) Title III, Servicemen's and Veterans' Survivor Benefits Act, Public Law 881, 84th Congress

1. A determination has been made and this is to certify that _____, (Name) _____ is the _____ (Address) (Exact relationship) of _____ (Name) _____ (Rate/rank) _____, deceased, who died (Service/file number) _____ while on _____ (Date) _____ (Active duty) _____ (Active duty for training) _____ (Inactive duty training)

2. Certification has been executed by the claimant that the deceased service member was not survived by a spouse, child or children and agrees to refund any money received as a death gratuity payment if it is later determined that there is no entitlement thereto.

3. _____, as the _____ (Name) _____ (Exact relationship), is entitled to receive the Six-Month Death Gratuity payable in accordance with the provisions of reference (a).

From: Disbursing Officer
To: Commanding Officer

Date _____

1. Payment to the individual named above has been made on _____ and information regarding the payment entered on the deceased service member's pay record. Notification of payment hereon is made by a signed copy of this original.

(c) *Application of survivor for the death gratuity payment.*

SAMPLE

DEATH GRATUITY APPLICATION
NAVPERS 1927 (REV. 12–56)

Complete this form promptly and return to ☐ the decedent's former Commanding Officer, or ☐ Chief of Naval Personnel (PERS–G23), Department of the Navy, Washington 25, D. C., as appropriate.

I, _____, hereby certify
(Name)
that I am the _____ of
(Relationship)
_____
(Service person's name)
_____ _____ who
(Service/file number) (Rank/rate)
died on _____ and hereby make
(Date of death)
application for the payment of the six-month death gratuity authorized by law. I further certify that payment thereof has not been received.

Signature: _____
Address: _____
_____

WITNESSES TO SIGNATURE BY MARK

(If claimant signs by mark, the signatures of two witnesses are required)

Name_____ Name_____
Address_____ Address_____
Date_____

CERTIFICATE

This Certificate to be executed by any or all claimants *Except Spouse* for payment of death gratuity including guardians of minor children of deceased.

I hereby certify to the best of my knowledge and belief that _____
(Service person's name)
_____ _____, de-
(Service/file number) (Rank/rate)
ceased, who died on _____ was
(Date of death)
not survived by a spouse, child or children. I further certify that in the event that subsequent investigation may develop that there is a surviving spouse and/or child(ren) that I will refund any monies or remuneration received as a death gratuity payment should it be determined that I have no entitlement thereto.

Witnessed: Date_____ _____
(Signature)
_____ _____
(Signature) (Address)
_____ _____
(Address)
_____

PENALTY FOR PRESENTING FRAUDULENT CLAIM: Fine of not more than $10,000 or imprisonment for not more than 5 years, or both (62 Stat. 698, 749, 18 USCA 287, 1001).

SUBPART C—PROVISIONS APPLICABLE TO THE MARINE CORPS

§ 716.10 *Procedure*—(a) *Action.* Commanding officers will direct immediate payment of the gratuity where the deceased member's spouse was, in fact, residing with the member on or near the station of duty at the time of the member's death while on active duty, active duty for training, or inactive-duty training. Every effort should be made to effect such payment promptly (within 24 hours, if possible). In cases where the eligible survivor residing with the member on or near the duty station is other than a spouse, commanding officers may direct the payment of death gratuity when the case can be properly determined, and an urgent need exists for immediate payment. Proper determination is imperative.

(b) *Qualifications.* (1) Where any doubt exists as to the legal recipient of the gratuity, the case will be referred to the Commandant of the Marine Corps (Code DN) for determination. See paragraph (c) (4) of this section.

(2) Where a member dies while being regularly paid by a service other than his own, under existing cross-servicing procedures, the death gratuity may be paid by the service having custody of the pay record of the deceased member, but only on the basis of information obtained by message verification from the commanding officer having custody of the service record of the deceased. See paragraph (c) (3) of this section.

(c) *Instructions concerning active duty deaths.* To effect immediate payment of death gratuity, commanding officers will:

(1) Ascertain that the deceased member died while on active duty, active duty for training, or inactive-duty training.

(2) Certify to the disbursing officer handling the pay record of the deceased member the name, relationship, and address of the survivor eligible to receive the gratuity as verified from the service record of the deceased member. Normally the Record of Emergency Data Form (DD 93 or DD 93–1) will contain this information. In addition, the Application for Dependents Allowance (BAQ) (NAV-PERS–668 (Rev. 2–51)) may serve as a source of corroboration. The commanding officer's Certification set out in § 716.11 (a), will be completed in quadruplicate and each copy signed by him, and the Application for Death Gratuity, set out in § 716.11 (b), will be prepared in duplicate as indicated for the signature of the beneficiary on both copies at the time of delivery of the death gratuity check. Under no circumstances will the check be delivered to the beneficiary until the application is signed.

(3) *Procedure for emergency payments for personnel separated from Service Record Books and Officer's Qualification Record.* When the commanding officer having custody of the service record of a deceased member is not located at the station which holds the pay record of the deceased, and the spouse was residing with the member at the latter station at the time of the member's death, immediate payment of the gratuity may be effected in the following manner:

(i) The command holding the pay record will submit a message request to the commanding officer having custody of the service record for authority to pay death gratuity to the spouse, citing Marine Corps Order 1740.5 as the reference.

(ii) Upon verification of the name and relationship of the spouse from the service record of the deceased member, the commanding officer will, by message, direct the payment of death gratuity to the spouse.

(iii) The Commandant of the Marine Corps (Code DN) will be an information addressee on each message submitted in accordance with the instructions in this subparagraph.

(4) *Doubtful cases.* As a rule, the commanding officer's determination of entitlement to the gratuity payment will be confined largely to spouses residing with the member on or near the station. No report for these purposes is required if the spouse or other beneficiary was not residing with the member. Action to effect payment of death gratuity in these cases will be instituted by the Commandant of the Marine Corps (Code DN). However, in those cases where the survivor was residing with the member on or near the station and there is any doubt as to the legal recipient of the gratuity, the commanding officer shall so notify the Commandant of the Marine Corps (Code DN) by message, furnishing the following information:

(i) Name, Grade, service number, and component of the deceased member. If reserve, duty status will be included.

(ii) Date, hour, place, and immediate cause of death.

(iii) Rate of pay including special and incentive pays.

(iv) Name, address, and relationship of survivor and/or designated death gratuity beneficiary.

§ 716.11 *Forms*—(a) *Sample of commanding officer's certification of eligible death gratuity recipient.* (Local reproduction of this certificate is authorized pending further instructions.)

Marine Barracks, Naval Base,
Philadelphia, Pa.
(Organization and station)

6 Jan 1957

From: Commanding Officer
To: Disbursing Officer, Marine Corps Clothing Depot, 1100 South Broad Street, Philadelphia, Pa.
Subj: Certification of survivor eligible to receive immediate payment of death gratuity in the case of the late Private John Doe, 234567, USMC
Ref: (a) Servicemen's and Veterans' Survivors Benefits Act
Encl: (1) Death gratuity application of beneficiary

1. I certify that subject-named person died on 6 January 1957, and that his service record shows:

a. Jane Doe, his widow, is the legal beneficiary of the death gratuity authorized by reference (a).

b. Jane Doe was residing with the subject-named person at her present address, 123 Main Street, Philadelphia, at the time of his death.

2. It is requested that immediate payment of death gratuity be made to the above-named beneficiary.

3. Captain William Smith, 043091, USMC, is authorized to receipt for the check in payment of the death gratuity and to deliver it to the above-named beneficiary.

THOMAS A. JONES
(Name and signature of commanding officer)

FIRST ENDORSEMENT

7 Jan 1957

To: Commanding Officer, Marine Barracks, Naval Base, Philadelphia, Pa.

1. Returned. Death gratuity was paid to the above-named beneficiary on 7 January

1957 in the amount of $800 on Voucher No. 7589.

K. W. SINGLE, 123-456
(Name, symbol No. and signature of disbursing officer)

NOTE: Underscoring indicates blank spaces to be completed.

(p) *Sample death gratuity application.* (Local reproduction of this application is authorized pending further instructions.)

DEATH GRATUITY APPLICATION

7 Jan 1957
(Date)

I hereby apply for the death gratuity to which I am entitled as the result of the death of my husband, Private John Doe, 234567, USMC.

(The following certificate is to be completed when the eligible survivor is a parent.)

I certify that I am the _____
(Relationship)

of the deceased; that he is not survived by a widow or child; and that I agree to refund any money I receive in payment of this gratuity if it is later shown that the deceased is in fact survived by a widow or child.

_____
(Signature of claimant)

PENALTY FOR PRESENTING FRAUDULENT CLAIM: Fine of not more than $10,000 or imprisonment for not more than 5 years, or both (18 U. S. C. 287; *id* 1001).

NOTE: Underscoring indicates blank spaces to be completed.

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral, U. S. Navy,
Judge Advocate General of the Navy.

SEPTEMBER 18, 1957.

[F. R. Doc. 57-7834; Filed, Sept. 24, 1957; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

Public Land Order 1509

[Anchorage 023173]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE AIR FORCE AS LAKE LOUISE RECREATION 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 Alaska, including the mineral resources thereof, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining, but not the mineral-leasing laws, or the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and the lands, excluding the mineral resources, are reserved for use of the Department of the Air Force as the Lake Louise Recreation Site:

Beginning at a point on the shore of Lake Louise from which USED Station "Louise", Latitude 62° 17' 59" N., Longitude 146° 36' 02" W., bears S. 71° 30' 00" W., 2340 feet, thence:

Northerly, 615 feet, approximately, along shore of Lake Louise;
West, 800 feet;
South, 336 feet;
West, 160 feet;
South, 370 feet to a point on the southerly edge of a road;
Southeasterly, 896 feet, approximately, along edge of said road to a point on the shoreline of Lake Louise;
Northerly, 350 feet, approximately, along shore of Lake Louise to point of beginning.

The tract described contains 14.96 acres, to be subsequently identified as U. S. Survey 3493.

HATFIELD CHILSON,
Under Secretary of the Interior.

SEPTEMBER 18, 1957.

[F. R. Doc. 57-7832; Filed, Sept. 24, 1957; 8:46 a. m.]

TITLE 50—WILDLIFE

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

Subchapter F—Alaska Commercial Fisheries

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Basis and purpose. On the basis of good showings of chum salmon generally in Southeastern Alaska it has been determined that for 1957 such fishing need not be confined to the nine bays where such fishing is now permitted during the fall season.

Therefore, effective immediately upon publication in the FEDERAL REGISTER

PART 115—SOUTHEASTERN ALASKA AREA SALMON FISHERIES, GENERAL REGULATIONS

1. Section 115.10 is deleted.

PART 117—SOUTHEASTERN ALASKA AREA, ICY STRAIT DISTRICT, SALMON FISHERIES

2. Section 117.3 is amended in the second sentence of text by deleting "in the Western section" and by deleting from the proviso "in Excursion Inlet."

PART 118—SOUTHEASTERN ALASKA AREA, WESTERN DISTRICT, SALMON FISHERIES

3. Sections 118.5 and 118.6a are amended in text by adding "and for chum salmon only from 12 o'clock noon September 24 to 6 o'clock postmeridian October 1" at the end of the first sentence of each.

4. Section 118.6 is amended in text in the proviso by deleting "in Hood and Chaik Bays."

PART 119—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT, SALMON FISHERIES

5. Section 119.3 is amended in the proviso of paragraph (b) by deleting "in Security Bay and Port Camden", and in paragraph (c) by adding the following to the first sentence of text "and for chum salmon only from 12 o'clock noon September 24 to 6 o'clock postmeridian October 1."

PART 121—SOUTHEASTERN ALASKA AREA, SUMNER STRAIT DISTRICT, SALMON FISHERIES

6. Sections 121.3 and 121.4 are amended in text by adding the following "and for chum salmon only from 12 o'clock noon September 24 to 6 o'clock postmeridian October 1" at the end of the first sentence of text.

PART 122—SOUTHEASTERN ALASKA AREA, CLARENCE STRAIT DISTRICT, SALMON FISHERIES

7. Section 122.4, 122.5 and 122.5b are amended by adding the following "and for chum salmon only from 12 o'clock noon September 24 to 6 o'clock postmeridian October 1" to the first sentence of text and by deleting the second sentence of text from §§ 122.4 and 122.5.

8. Section 122.5a is amended in the proviso by deleting "in Kasaan Bay, Moira Sound and Cholmondeley Sound."

PART 123—SOUTHEASTERN ALASKA AREA, SOUTH PRINCE OF WALES ISLAND DISTRICT, SALMON FISHERIES

9. Section 123.3 is amended in the proviso by deleting "in the waters of Klawak Inlet."

PART 124—SOUTHEASTERN ALASKA AREA, SOUTHERN DISTRICT SALMON FISHERIES

10. Section 124.3 is amended by adding the following after "August 17", "and for chum salmon only from 12 o'clock noon September 24 to 6 o'clock postmeridian October 1" and by deleting the final sentence of text.

The above changes are to be effective in 1957 only.

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)

A. W. ANDERSON,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 57-7906; Filed, Sept. 23, 1957; 4:51 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 942]

[Docket No. AO–103–A15]

MILK IN THE NEW ORLEANS, LOUISIANA, MARKETING AREA

NOTICE OF EXTENSION OF TIME FOR FILING EXCEPTIONS TO RECOMMENDED DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New Orleans, Louisiana, marketing area, which was issued September 4, 1957 (22 F. R. 7076), is hereby further extended to September 30, 1957.

Dated: September 20, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 57–7859; Filed, Sept. 24, 1957; 8:52 a. m.]

Agricultural Research Service

[9 CFR Part 131]

[Docket No. AO16–A5]

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

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

Pursuant to Public Law 320, 74th Congress, approved August 24, 1935 (49 Stat. 781; 7 U. S. C. 851 et seq.) and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders applicable to Anti-Hog-Cholera Serum and Hog-Cholera Virus (9 CFR Part 132) public hearings were held at Kansas City, Missouri, on July 23, 1956 and April 15, 1957, pursuant to notice thereof published in the FEDERAL REGISTER (21 F. R. 4519 and 22 F. R. 1521) upon proposed amendments to the Marketing Agreement, as amended, hereinafter referred to as the "Marketing Agreement," and to the order, as amended (9 CFR Part 131), hereinafter referred to as the "order", regulating the handling of anti-hog-cholera serum and hog-cholera virus.

Upon the basis of the evidence adduced at the hearing held on July 23, 1956, and the record thereof, the Chief, Animal Inspection and Quarantine Branch, on the 22d day of October 1956 filed with the Hearing Clerk, United States Department of Agriculture, a recommended decision in this proceeding; and upon the basis of the additional evidence adduced at the reopened hearing of April 15, 1957, and the record thereof, the Director, Animal Inspection and Quarantine Division, on the 24th day of July 1957, filed with the Hearing Clerk, United States Department of Agriculture an amended recommended decision. The notices of the filing of such recommended decision and amended recommended decision, affording opportunity to file written exceptions thereto, were published in the FEDERAL REGISTER on October 31, 1956 and July 27, 1957, respectively (21 F. R. 8326 and 22 F. R. 5960).

Rulings on exceptions. Exceptions to the recommended decision were filed by the Control Agency and numerous members of the industry excepting to that portion of such decision which recommended, in effect, that sealed bids made in response to public advertisements therefor may be made at prices other than the prices contained in the bidder's posted price list. Thereafter, a reopened hearing was held for the purpose of receiving additional evidence on the question of bids. An amended recommended decision was issued thereon which recommended that bids made at prices different from the prices contained in the bidder's posted price list be prohibited. No exceptions were filed to the amended recommended decision. All exceptions were fully and carefully considered, together with the evidence of record, in arriving at the findings and conclusions set forth herein. To the extent that the aforesaid exceptions are inconsistent with the findings and conclusions contained herein such exceptions are overruled.

Upon consideration of the entire record, the material issues, rulings, findings, and conclusions of the recommended decision, as amended, are hereby approved, adopted, and incorporated herein as the material issues, rulings, findings, and conclusions of this decision as if set forth in full herein.

General findings. Upon the basis of the evidence adduced at the hearings and the record thereof, it is hereby found that:

(a) The said agreement, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The said order, as amended and as hereby proposed to be further amended, regulates the handling of anti-hog-cholera serum and hog-cholera virus in the same manner as, and contains only such terms and conditions as are contained in the said marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Marketing Agreement, as amended, Regulating the Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus" and "Order Amending the Order, as amended, Regulating the Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus", which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid amendments shall not become effective unless and until the requirements of § 132.14 (b) of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met. It is contemplated that the provisions with respect to bids contained in § 131.54 shall not become final until regulations with respect to the dissemination of price lists and the time of filing of price lists are issued by the control agency and approved by the Secretary.

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

Done at Washington, D. C. this 20th day of September 1957.

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

Order [1] Amending the Order, as Amended, Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus

Sec.

[1] This order shall not become effective unless and until the requirements of § 132.14 (b) of this chapter have been met.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the anti-hog-cholera serum and hog-cholera virus marketing agreement act (7 U. S. C. 851 et seq.), and the rules of practice and procedure governing formulation of marketing agreements and marketing orders applicable to anti-hog-cholera serum and hog-cholera virus (Part 132 of this chapter) a public hearing was held at Kansas City, Missouri, on July 23, 1956, and April 15, 1957, upon a proposed marketing agreement and a proposed order regulating the handling of anti-hog-cholera serum and hog-cholera virus. Upon the basis of the evidence adduced at the hearing and the record thereof, it is found that:

(1) The said marketing agreement, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby proposed to be further amended, regulates the handling of anti-hog-cholera serum and hog-cholera virus in the same manner as, and contains only such terms and conditions as are contained in the said marketing agreement upon which a hearing has been held;

(3) All handling of anti-hog-cholera serum and hog-cholera virus is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

Order relative to handling. It is therefore ordered that on and after the effective time hereof, the handling of anti-hog-cholera serum and hog-cholera virus shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and such terms and conditions are as follows:

DEFINITIONS

§ 131.1 *Secretary.* The Secretary of Agriculture of the United States.

§ 131.2 *Act.* Anti-hog-cholera Serum and Hog-cholera virus Marketing Agreement Act (49 Stat. 781; 7 U. S. C. 851 et seq.).

§ 131.3 *Person.* Individual, partnership, corporation, association, or any other business unit.

§ 131.4 *Serum and virus*—(a) *Serum.* Anti-hog-cholera serum manufactured in compliance with standards and regulations promulgated by the United States Department of Agriculture, or manufactured under license or authority of any State or otherwise.

(b) *Virus.* Virulent, modified, or inactivated hog-cholera virus, or any derivative or variation of hog-cholera virus, which is used alone or in connection with anti-hog-cholera serum to protect hogs against hog cholera, manufactured in compliance with regulations promulgated by the United States Department of Agriculture, or manufactured under license or authority of any State or otherwise.

§ 131.5 *Handler.* Any person who is engaged in the handling of anti-hog-cholera serum or hog-cholera virus.

§ 131.6 *To handle.* To sell, to ship, or in any way put serum or virus into the channels of trade.

§ 131.7 *To market.* To consign or to sell or in any other manner transfer or convey title to, or any interest in, serum or virus, or to enter into any contract or arrangement to do or have done any of the said acts.

§ 131.8 *Wholesaler.* That class of buyers comprising (a) persons or agencies who do not administer serum or virus but are regularly engaged in purchasing and maintaining stocks of serum or virus in sufficient quantities to supply dealer demand, who are properly located and equipped with proper storage and distributing facilities to supply dealer demand, who resell principally to dealers, and who shall have been found by the Control Agency on submitted evidence acceptable to said Control Agency to perform in good faith the usual functions of a wholesaler, including, but without limitation, the storing of serum or virus marketed, the absorbing of all expenses incidental to the advertising and selling of serum or virus, after receipt by them, to other trade groups, together with the providing of field or veterinary service necessary to determine whether the products sold have served their purpose in specific cases, and (b) any State or Federal Agency, or any farmer cooperative association who regularly purchases, for delivery within a definite period of time and pays for at sellers' posted prices at time of delivery, serum or virus in specified quantities adequate, in the opinion of the Control Agency, to justify such classification.

§ 131.9 *Dealer.* That class of buyers comprising veterinarians and other persons regularly engaged in administering serum or virus for service charges, drug stores, county farm bureaus, purchasers of serum for use in U. S. licensed stock yards vaccination, and agencies who maintain stocks of serum or virus in sufficient quantities under proper storage and distributive facilities for resale to ultimate consumers (owners of swine).

§ 131.10 *Manufacturer or producer.* Any person who manufactures or produces and is engaged in the handling or distribution of serum or virus.

§ 131.11 *Distributor.* Any person who does not manufacture serum or virus, but is engaged in the handling or distribution of serum or virus.

§ 131.12 *Control agency.* The agency established pursuant to §§ 131.21 to 131.33.

§ 131.13 *Books and records.* Any books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, memoranda, or other data pertaining to the business of the person in question.

§ 131.14 *Subsidiary.* Any person, of or over whom or which a handler or an affiliate of a handler has, or several handlers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

§ 131.15 *Affiliate.* Any person and/or subsidiary thereof, who or which has, either directly or indirectly, actual or legal control of or over a handler, whether by stock ownership or in any other manner.

§ 131.16 *Dollar volume.* The sum of money received from the total yearly sales of serum and virus less any credit allowed for returned serum and virus.

CONTROL AGENCY

§ 131.21 *Membership.* A control agency is hereby established consisting of 12 members, who shall hold office until

their successors are selected and qualified.

§ 131.22 *Nominations.* The members and their respective alternates shall be selected by the Secretary annually at least 15 days prior to the termination of the term of office of their respective predecessors. Such selections shall be made by the Secretary from the respective nominees of groups hereinafter designated to make nominations. Nominations shall be made on December 1 of each year in the following manner: The handlers who are manufacturers marketing their products principally through veterinarians, as a group, may nominate by inscribing on a ballot the names of 20 individuals to represent such handlers as members and/or alternates. The handlers who are manufacturers marketing their products principally through other channels, as a group, may nominate by inscribing on a ballot the names of 20 individuals to represent such handlers as members and/or alternates. The handlers who are wholesalers marketing their products principally through veterinarians, as a group, may nominate by inscribing on a ballot the names of four individuals to represent such handlers as members and/or alternates. The handlers who are wholesalers marketing their products principally through other channels may nominate by inscribing on a ballot the names of four individuals to represent such handlers as members and/or alternates.

§ 131.23 *Selection.* Each of the 12 members of the control agency and their alternates shall be selected by the Secretary from the individuals in each of the four groups comprising the nominees for membership and/or alternates who receive the highest numbers, successively, of votes cast by handlers entitled to vote for nominees in each group. The Secretary may designate an individual to serve as an alternate for more than one member of the same group. No two individuals from the same partnership, corporation, association, or any other business unit, including agents, affiliates, subsidiaries, and/or representatives thereof, shall be selected for membership in or serve as members of the control agency at the same time. The nominees in each instance shall be nominated by a vote of the handlers who are entitled under the provisions of this subpart to vote for such nominees. At any election of nominees each handler shall be entitled to cast one vote on behalf of himself, agents, partners, affiliates, subsidiaries, and/or representatives for each of the members of the control agency and their respective alternates for whom he is entitled to vote.

§ 131.24 *Term of office.* Members of the control agency and their respective alternates, shall be selected annually for a term of one year beginning the first day of January, and shall serve until their respective successors shall be selected and shall qualify. Any individual selected as a member of the control agency or an alternate shall qualify by filing a written acceptance of his appointment with the Secretary or his designated representative.

§ 131.25 *Vacancies.* To fill any vacancy occasioned by the removal, resignation, or disqualification of any member of the control agency or an alternate, a successor for his unexpired term shall be selected by the Secretary from nominees selected by the respective group of handlers in whose representation the vacancy has occurred, such nominees to be determined by the selection by the proper group as specified in § 131.22, two nominees for each vacancy to be filled, and selected in the manner specified in § 131.23. Such selection of nominees shall be made within 30 days after such vacancy occurs. If a nomination is not made within such 30 days, the Secretary may select an individual to fill such vacancy.

§ 131.26 *Election of officers.* The members of the control agency shall select a chairman from their membership, and all communications from the Secretary may be addressed to the chairman at such address as may from time to time be filed with the Secretary. The agency shall select such other officers and adopt such rules not inconsistent with the provisions of this subpart for the conduct of its business as it may deem advisable. The agency shall give to the Secretary or his designated agent the same notice of meetings of the control agency as is given to members of the agency and their alternates.

§ 131.27 *Compensation.* A reasonable compensation to be determined by the control agency, to be paid to the Secretary of the control agency, and the expenses of the members of the control agency while engaged in the business of the control agency, shall be necessary expenses to be incurred by the control agency for its maintenance and functioning under this subpart.

§ 131.28 *Powers.* The control agency shall have power:

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

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

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

(d) To recommend to the Secretary amendments to this subpart; and

(e) The control agency, subject to the disapproval of the Secretary, may select an executive committee of not more than four members who shall be empowered to act for the control agency in the routine administration of this subpart, at such times as the control agency is not meeting and cannot be conveniently convened for the purpose. Any and all acts of the executive committee shall be subject to the approval of the control agency, which shall take action with respect to any act of the executive committee at the next meeting of the control agency held immediately following any action by the executive committee.

§ 131.29 *Duties.* It shall be the duty of the control agency:

(a) To act as intermediary between the Secretary and any handler;

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

(c) To furnish to the Secretary such available information as he may request;

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

(e) To establish and/or foster any agency for the purpose of securing new or improved markets for the serum and virus industry through marketing research. The expenses of such expansion or improvement of markets through research shall be a necessary expense incurred by the control agency for its maintenance and functioning, and shall be defrayed by it from funds collected pursuant to §§ 131.41 through 131.45; and

(f) To make such disbursements as may be necessary to meet expenses necessarily incurred by the control agency for its maintenance and functioning under the provisions of this subpart.

§ 131.30 *Procedure.* (a) All decisions of the control agency except where otherwise specifically provided, shall be by a three-fourths (¾) vote of the members who have qualified by filing their written acceptance and who are eligible to vote.

(b) The control agency may provide for voting by its members by mail or telegraph upon due notice to all members, and when any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption until submitted to a meeting of the control agency.

(c) If a member of the control agency shall be a party in interest to any dispute or complaint, or a representative of such party in interest, he shall, for the purpose of the consideration of such dispute or complaint, be disqualified as a member of the control agency. Such disqualification, however, shall not be deemed to create a vacancy in the control agency.

(d) The alternate for each member of the control agency shall have the power to act in the place and stead of such member in his absence and/or in the event of his removal, resignation, or disqualification until a successor for such member's unexpired term has been selected.

§ 131.31 *Removal or suspension of members.* The members of the control agency (including alternates, successors, or other persons selected by the Secretary), and any agent or employee appointed or employed by the control agency shall be subject to removal or suspension by the Secretary at any time.

§ 131.32 *Disapproval of decisions by Secretary.* Each and every order, regulation, decision, determination, or other act of the control agency, shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

§ 131.33 *Funds.* All funds received by the control agency, pursuant to any pro-

vision of this subpart, shall be used solely for the purpose specified and shall be accounted for in the following manner:

(a) The Secretary shall require the control agency and its members, or alternates acting as members, to account for all receipts and disbursements.

(b) Upon the removal or expiration of the term of office of any member of the control agency, or of an alternate acting as a member, such member or alternate shall account for all receipts and disbursements, and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and/or claims vested in such member or alternate pursuant to this subpart.

(c) Any funds derived from assessments or any other source which have not been expended by the control agency at the end of a calendar year shall be carried over by the control agency, to be expended during the succeeding calendar year.

(d) Upon the termination or suspension of this subpart or of any provision thereof, the funds of the control agency shall be disposed of in the manner provided in § 131.113.

ASSESSMENTS

§ 131.41 *Handler assessment.* Each manufacturer and wholesaler handler shall pay the control agency, as provided in §§ 131.42 through 131.45, such handler's pro rata share, as may be approved by the Secretary, of such expenses as the Secretary may find will necessarily be incurred by the control agency during any period specified by the Secretary for the maintenance and functioning of the control agency, as set forth in this subpart.

§ 131.42 *Division of assessments.* (a) The pro rata share of the expenses of the control agency to be borne by handlers who are wholesalers shall be determined as follows: Multiply the number of wholesalers of record on December 31st of the preceding calendar year by 1/10 of one percent and then multiply the result thereof by the total expense of the control agency for the current year. The resulting sum shall be the pro rata share of the expenses of the control agency of handlers who are wholesalers, and shall be assessed as set forth in § 131.43: *Provided,* That the pro rata share so computed shall not exceed thirty-three and one-third percent (33 1/3 percent) of the total expense of the control agency. In the event the pro rata share so computed exceeds thirty-three and one-third percent (33 1/3 percent), the pro rata share of such handlers shall be adjusted to thirty-three and one-third percent of the total expense of the control agency.

(b) The pro rata share of the expenses of the control agency to be borne by handlers who are manufacturers shall be the balance remaining after deducting the pro rata share of the wholesaler handlers from the total expense of the control agency, and shall be assessed as set forth in § 131.45.

(c) The assessments of all handlers may be adjusted from time to time by the control agency, with approval of the Secretary, in order to provide funds sufficient in amount to cover any later findings of the Secretary of estimated expenses or actual expenses of the control agency during the calendar year.

§ 131.43 *Method of wholesaler handler assessments.* (a) As his pro rata share of the expenses of the Control Agency to be borne by all wholesaler handlers, each wholesaler handler shall pay to the control agency a sum computed on the basis of the dollar volume of serum and virus marketed by such handler during the preceding calendar year at the following applicable rates:

(1) Ten thousand dollars, or less—$25.00;

(2) Over ten thousand dollars—at a rate per ten thousand dollars, or fraction thereof, to be fixed by the Secretary based upon the ratio between the dollar volume of marketings of each wholesaler handler whose marketings are in excess of ten thousand dollars and the total dollar volume of marketings of all wholesaler handlers whose marketings are in excess of ten thousand dollars.

(b) The pro rata share of all wholesaler handlers shall be obtained by assessing the first ten thousand dollars or less of the dollar volume of serum and virus marketed by each wholesaler handler, and if the sum obtained is not sufficient to cover the total amount of the pro rata share of all wholesaler handlers such additional amounts as are necessary to be assessed shall be assessed in the manner set forth in paragraph (a) (2) of this section. If the total sum obtained by assessing the first ten thousand dollars, or less, of the dollar volume of serum and virus marketed by each wholesaler is greater than the pro rata share of all wholesaler handlers, the rate of assessment for ten thousand dollars, or less, shall be adjusted by the Secretary to an amount that will return the sum necessary to cover the pro rata share of all wholesaler handlers. The amount of each wholesaler handler's pro rata share shall be computed by the disinterested agency selected under the provisions of § 131.48. Such pro rata share shall be subject to the approval of the Secretary. The pro rata share of each wholesaler handler shall be paid as follows: $25.00 on or before January 15, of each year and the remaining sum, if any, within fifteen (15) days after being billed therefor. Such payments shall be made to the disinterested agency which shall transmit the total amount received to the control agency without disclosing the amount paid by each handler. In the event the Secretary adjusts the pro rata share of each wholesaler handler to an amount less than $25.00, the excess paid shall be credited on such handler's pro rata share of the following year's assessment.

§ 131.44 *Fee to accompany application for classification.* Each application for classification as a wholesaler shall be accompanied by a fee of twenty-five dollars ($25.00). If the application is rejected such fee shall be refunded to the applicant. If the application is approved the fee shall be retained and used for the maintenance and functioning of the control agency as such applicant's pro rata share of expenses of such agency for the year in which the application is approved.

§ 131.45 *Method of manufacturer handler assessments.* The pro rata share of expenses to be paid by each manufacturer handler shall be based upon such handler's percentage of the total dollar volume of serum and virus marketed by all such handlers during the preceding calendar year. The amount of each manufacturer handler's pro rata share shall be computed by the disinterested agency selected under the provisions of § 131.48. The pro rata share of each manufacturer handler shall be paid as follows: An amount equal to one-half of the previous year's assessment shall be due and payable on or before February 1 of each year, and the remaining balance assessed shall be due and payable on or before July 1 of each year. Such payments shall be made to the disinterested agency which shall transmit the amount received to the control agency without disclosing the amount paid by each handler.

REPORTS AND RECORDS

§ 131.48 *Reports.* (a) On or before March 15 of each year, each manufacturer and wholesaler handler shall furnish the Secretary, through a disinterested agency to be selected by the control agency and approved by the Secretary, a report, which shall be sworn to, setting forth the dollar volume of serum and virus marketed in domestic and foreign commerce by such handler during the preceding calendar year. On or before June 15 of each year, each manufacturer handler shall file a report with the Secretary, which shall be sworn to, setting forth the cubic centimeter volume of completed serum such handler had on hand May 1 of such year, and setting forth the cubic centimeter volume of serum marketed in domestic and foreign commerce by such handler during the preceding calendar year. Each handler shall furnish such other information with respect to the production and marketing of serum or virus as the Secretary may request.

(b) The disinterested agency shall make reports to the Secretary with respect to the marketings of serum and virus and collections of assessments under this subpart upon request therefor by the Secretary, and shall promptly transmit to the control agency all sums of money received by it from handlers in payment of assessments. The Secretary shall inform the agency concerning the total amount of the pro rata share of manufacturer handlers and the total amount of the pro rata share of wholesaler handlers of the expenses of the control agency.

§ 131.49 *Records.* Each handler shall keep and maintain for a period of two years accounts and records showing, to the extent that he is concerned therewith, the manufacture, receipt, delivery, sale, prices, and disposition of serum and

virus in sufficient detail as will enable the Secretary to ascertain and determine the extent to which such handler is complying with the terms and provisions of this subpart; and each handler shall, upon the request of a duly authorized representative of the Secretary, permit him at all reasonable times to have access to and copy such records. Any information furnished to or acquired by the Secretary or his representative pursuant to this paragraph shall be subject to the provisions of section 8 (d) (2) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608 (d) (2)).

FILING OF PRICES

§ 131.51 *Filing of price list.* Each manufacturer and wholesaler handler shall file with the Secretary and the control agency a separate list of his selling prices in the United States, including terms of sale and discounts, to each class of buyer defined in this subpart or under the provisions thereof, other than those specified in § 131.55. Each such handler's prices, discounts, and terms of sale shall be uniform for all buyers in each classification of the trade as defined by the control agency pursuant to this subpart.

§ 131.52 *Modification of price list.* The price list filed by a manufacturer or wholesaler handler may, subject to the limitations set forth in § 131.54, be modified at any time by such handler by filing a new or amended list of prices, including discounts and terms of sale, which shall only become effective when said new or amended list shall have been on file for three days in any office designated by the control agency: *Provided, however,* That in the event such list is mailed by registered letter or telegraphed to such office, it shall be deemed to have been filed either (a) at the time during usual business hours it is actually delivered in such office, or (b) at the time during usual business hours such communication would have been received, considering the usual time required for the means of communication used, in the absence of delays in transit, whichever time is earlier.

§ 131.53 *Notification of new or amended price lists.* The control agency shall immediately upon receipt of any such new or amended price list, give written notice thereof to each of the handlers and to the Secretary. All price lists shall be made immediately available to the daily and trade press and to the consuming public by employing a means of communication at least as rapid as that used to notify the handlers and the Secretary.

§ 131.54 *Offers, contracts, sales.* Each manufacturer and wholesaler handler shall make no sales unless he has an effective price list, including discounts and terms of sale, as set forth in § 131.51, filed with the control agency. No manufacturer or wholesaler handler shall make any bid, or offer to sell, or enter into an agreement or contract to sell serum or virus, or in any manner sell serum or virus at prices, discounts, or terms of sale different from those set forth in his filed price list which is effective at the time any such bid, offer, agreement, contract, sale, or delivery is made. No manufacturer or wholesaler handler shall file a new or amended price list until his most recently filed price list for any class of buyers becomes effective, and no such handler shall withdraw any filed price list prior to the effective date of such price list.

§ 131.55 *Filed prices not applicable to sales outside United States.* The provisions with respect to the filing of prices shall not apply to any sales made by any handler for delivery outside the United States.

§ 131.56 *Secretary may suspend and declare ineffective price lists.* If the Secretary has reason to believe, from economic data directly available to him or secured by him under the provisions of the act, that any price list, term of sale or discount, in whole or in part, is inequitable to consumers or handlers by reason of the fact that it may cause immediate injury by impeding the carrying out of this subpart or the effectuation of the declared policy of the act or by creating an abuse of the privilege of exemptions from the antitrust laws, he may suspend the effectiveness of such price list, term of sale or discount, in whole or in part, pending an investigation which shall be completed as soon as practicable, and he shall report such suspension to the control agency, who shall in turn immediately notify the handler whose price filing has been suspended. The Secretary may declare a filed price, discount, or term of sale, in whole or in part, to be ineffective if, after an investigation and an opportunity to be heard has been afforded the handler whose price filing is questioned, the Secretary finds from the facts presented during such investigation that such price list, term of sale, or discount, in whole or in part, is inequitable as measured by the standards set up in this section.

UNFAIR PRACTICES

§ 131.71 *Unfair methods of competition and unfair trade practices.* The following are unfair methods of competition and unfair trade practices, and are prohibited:

(a) The payment or allowance of rebates, refunds, commissions or unearned discounts, either in the form of money or otherwise, or extending to certain purchasers special services or privileges not extended to all purchasers under like conditions;

(b) Selling serum or virus at less than reasonable market value;

(c) The giving away or selling other products at less than reasonable market value to a purchaser or user of serum or virus, for the purpose or with the effect of influencing the sale of serum or virus;

(d) Maliciously enticing away the employees of competitors;

(e) Defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by any other false representation of character or conduct or of the serum or virus handled by them;

(f) The sale or offering for sale of any serum or virus by any false means or device;

(g) Shipping of serum or virus on consignment;

(h) Withholding from or inserting in an invoice information which makes the invoice, in whole or in part, a false record of the transaction covered by the invoice;

(i) The making, causing, or permitting to be made, or publishing of any false, untrue, misleading, or deceptive statement by means of advertisement or otherwise, concerning the grade, quality, quantity, character, nature, origin, preparation, or use of serum or virus.

§ 131.72 *Distributor handlers advertising as manufacturers.* The use by handlers who are distributors of the words "Serum Company", "Serum Laboratories" or other equivalent words on letterheads, signs, advertising matter, and otherwise where such practice tends to mislead and deceive purchasers and consumers into belief that such distributor is a manufacturer, where in fact he is not, is prohibited.

SERUM RESERVE

§ 131.79 *Emergency reserve.* Each manufacturer who is a handler shall have available on May 1 of each year a supply of completed serum equivalent to not less than 40 percent of his previous year's sales.

MISCELLANEOUS PROVISIONS

§ 131.81 *Classes of buyers.* The control agency, subject to the disapproval of the Secretary, shall upon the basis of a written request supported by economic data sufficiently adequate to warrant a conclusion that such definition is neither unreasonable nor discriminatory, define all classes of buyers not defined in this subpart, and shall, subject to the disapproval of the Secretary, determine in specific cases whether any person who is a handler or who is about to become a handler comes within any class of buyers herein or hereafter defined, and shall compile, subject to the disapproval of the Secretary, lists of persons comprising each class of buyers, such lists and additions thereto to be filed immediately with the Secretary and distributed to the manufacturer and wholesaler handlers.

§ 131.82 *Uniform sales invoices.* The control agency, subject to the disapproval of the Secretary, may formulate and adopt uniform sales invoices for manufacturer and wholesaler handlers. After the adoption of such uniform sales invoices, all sales of serum or virus by such handlers to all classes of buyers shall be made in accordance with the terms of such invoices, and prices and terms of sale therein shall conform to the seller's filed prices and terms of sale, effective at the time of making sales covered by such invoices.

§ 131.83 *Agents and distributional outlets.* The control agency is authorized to require that each manufacturer and wholesaler handler file with such agency a list of his agents and distributional outlets for the marketing of serum or virus. Whenever the control agency by regulation requires that manufacturer and wholesaler handlers list with the control agency such handlers' agents and distributional outlets, any movement or

transfer of serum or virus by a manufacturer or wholesaler handler to any person not listed with the control agency as such handler's agent or distributional outlet shall, for the purpose of this subpart, be considered to be a sale of serum or virus to such person.

§ 131.84 *Compliance.* No person shall handle serum or virus except in conformity with the provisions of this subpart and the rules and regulations issued pursuant thereto.

§ 131.85 *Duration of benefits, privileges, and immunities.* The benefits, privileges, and immunities conferred by virtue of this subpart shall not extend or be construed to extend further than is necessary for the purpose of carrying out the provisions of this subpart and shall cease upon its termination except with respect to acts done under and during the existence of this subpart, and benefits, privileges, and immunities conferred by this subpart upon any party subject hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this subpart.

§ 131.86 *Agents; Secretary may designate.* The Secretary may by designation in writing name any person (not subject to this subpart), including any officer or employee of the Government or of the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 131.87 *Committees; Secretary may select.* The Secretary may select such committees to meet with or advise the control agency as he deems necessary for the proper functioning of the control agency under the provisions of this subpart. One such committee or its representative shall represent the interests of consumers. The expenses for the maintenance and functioning of the advisory committees may be included within the budget submitted to the Secretary for approval, pursuant to § 131.41, and may be met by the control agency from funds paid to it for the maintenance and functioning of the control agency.

§ 131.88 *No derogation or modification of rights of Secretary or of the United States.* Nothing contained in this subpart is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, and/or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 131.89 *Liability of members and employees of control agency.* No member of the control agency nor any employee thereof shall be held responsible individual in any way whatsoever to any handler subject to this subpart or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty. The contractual obligations of the handlers under this subpart are several and not joint, and no handler shall be liable for the default of any other handler.

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

AMENDMENTS

§ 131.101 *Who may propose.* Amendments to this part may, from time to time, be proposed by handlers subject hereto or by the control agency.

§ 131.102 *Notice and hearing.* After due notice and opportunity for hearing and upon determination by the Secretary that the proposed amendment has been incorporated in the marketing agreement for handlers of anti-hog-cholera serum and hog-cholera virus, executed by the Secretary on the 2d day of December 1936, the Secretary shall amend this subpart in conformance with such amendment to the said marketing agreement, and such amendment shall become effective at such time as the Secretary may designate.

EFFECTIVE TIME AND TERMINATION

§ 131.111 *Effective time.* This subpart shall become effective at such time as the Secretary may determine the marketing agreement for handlers of anti-hog-cholera serum and hog-cholera virus, executed by him on the 2d day of December 1936, has been executed by all the handlers of seventy-five (75) percent of the volume of serum and virus handled during the preceding marketing year and may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways specified.

§ 131.112 *Termination; how accomplished and when effective.* (a) The Secretary may at any time terminate this subpart as to all parties subject thereto by giving at least seven days' notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary shall terminate this subpart at the end of the then current marketing period (December 31) whenever he finds that such termination is favored by all the handlers of not less than seventy-five (75) percent of the volume of serum and virus handled during the preceding marketing period.

(c) This subpart shall in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 131.113 *Liquidation.* Upon the termination or suspension of this subpart or of any provisions thereof, the members of the control agency then functioning, or such other persons as the Secretary may from time to time designate, shall, if so ordered by the Secretary, liquidate the business of the control agency under this subpart, and dispose of all funds and property then in the possession or under the control of the control agency, together with claims for any funds which are unpaid or property not delivered at the time of such termination. The control agency or such other persons as the Secretary may designate (a) shall continue in such capacity until discharged by the Secretary (b) shall, from time to time, account for all receipts and disbursements and/or deliver all funds and property on hand, together with the books and records of the control agency, to such person or persons as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments, or other instruments necessary or appropriate to vest in such person or persons full title to all the funds, property, and/or claims vested in the control agency pursuant to this subpart. Any funds collected for expenses, pursuant to the provisions of this subpart, and held by the control agency or such person or persons, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the control agency or such person or persons, shall be returned to the contributing handlers in proportion to the contributions of each handler, or shall be expended by the control agency for a purpose not inconsistent with the provisions of this subpart and in a manner which the handlers shall determine by a three-fourths vote of such handlers. The control agency or such person or persons shall observe the procedure governing the actions of the control agency as established under the provisions of § 131.30. Any person to whom funds, property, and/or claims have been delivered by the control agency or its members upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, and/or claims as are imposed upon the members of the control agency.

[F. R. Doc. 57-7861; Filed, Sept. 24, 1957; 8:53 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

FRANCESCO DEL DRAGO ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Francesco del Drago, Palazzo del Drago, Filacciano (Rome), Italy; Alesandro del Drago, Palazzo del Drago, Filacciano (Rome), Italy; Countess Angela Spalletti, nee del Drago, Via Adda 4, Rome, Italy; Princess Maria Melagros Colonna, nee del Drago, Piazza SS. Apostoli, Palazzo Colonna, Rome, Italy; Princess Anna Maria Torlonia, nee del Drago, Via della Conciliazione 30, Rome, Italy; Claim No. 42977; all right, title, interest and claim of

any kind or character whatsoever of Francesco del Drago, Alesandro del Drago, Angela del Drago, Maria Melagros del Drago, and Anna Maria del Drago in and to the trust under the Will of Josephine del Drago, deceased, such property being in the process of administration by Corn Exchange Bank Trust Company[1] of New York, New York, Trustee, acting under the judicial supervision of the Surrogate's Court, New York County, New York. Vesting Order No. 1999.

Executed at Washington, D. C., on September 13, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-7805; Filed, Sept. 23, 1957; 8:50 a. m.]

ALBERT REVAI

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Albert Reval, % Hanf-Jute- und Textilit-Industrie, A. G., Wien I., Boersegasse 18, Vienna, Austria; Claim No. 40261; $128.27 in the Treasury of the United States. Vesting Order No. 5120.

Executed at Washington, D. C., on September 16, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-7806; Filed, Sept. 23, 1957; 8:50 a. m.]

MARIKA STERNBERG

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Marika Sternberg, Tel-Aviv, Israel; Claim No. 48093; $472.49 in the Treasury of the United States. Vesting Order No. 3305.

[1] Now the Chemical Corn Exchange Bank.

Executed at Washington, D. C., on September 16, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-7808; Filed, Sept. 23, 1957; 8:50 a. m.]

WALTER GAGG

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Walter Gagg, 48 Gerechtigkeitsgasse, Berne, Switzerland; Claim No. 62678; $1,645.25 in the Treasury of the United States; and 15 shares of $100 par value common capital stock of Baltimore and Ohio Railroad Company, evidenced by Certificate No. A-684839, presently in the custody of the Federal Reserve Bank in New York. Vesting Orders Nos. 17829 and 17903.

Executed at Washington, D. C., on September 17, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-7810; Filed, Sept. 23, 1957; 8:51 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

[General Order No. 85A]

PERFORMANCE OF FUNCTIONS OF SECRETARY OF LABOR UNDER WALSH-HEALEY PUBLIC CONTRACTS ACT, AS AMENDED AND FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, IN THE EVENT OF VACANCY IN OFFICE OF ADMINISTRATOR OF WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS

By virtue of and pursuant to the authority vested in me by the act of March 4, 1913 (5 U. S. C. 611), section 4 of the act of June 30, 1936, as amended (41 U. S. C. 38), the act of June 25, 1938, as amended (29 U. S. C. 201 et seq.), Reorganization Plan No. 6 of 1950 (64 Stat. 1263, 5 U. S. C. 611 note), and R. S. 161 (5 U. S. C. 22),

It is hereby ordered, That in the event of a vacancy occurring in the office of Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor, the administration by the Secretary of Labor of the Fair Labor Standards Act of 1938, as amended and of the Walsh-Healey Public Contracts Act, as amended, shall be subject to the following provisions until such time as the vacancy shall be filled by a duly appointed and qualified successor to the office:

1. All orders, regulations, interpretations, delegations, sub-delegations, or agreements issued, made, or entered into under any authority conferred by either of such acts shall remain in effect as orders, regulations, interpretations, delegations, sub-delegations, or agreements of the Secretary of Labor except as otherwise provided in this Order or by amendments, modifications, or rescissions which may be made by the Secretary or under his authorization.

2. The Deputy Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor shall have authority to perform, in the same manner and to the same extent as the Administrator is authorized to do under the provisions of General Order No. 25 or General Order No. 45A, the following functions of the Secretary of Labor:

a. All functions under the Walsh-Healey Public Contracts Act, as amended, which such Administrator is authorized to perform by virtue of the provisions of General Order No. 25 and pursuant to the provisions of Reorganization Plan No. 6 of 1950; and

b. All functions under the Fair Labor Standards Act of 1938, as amended, which such Administrator is authorized to perform by virtue of the provisions of General Order No. 45A and pursuant to the provisions of Reorganization Plan No. 6 of 1950.

In the course of his performance of any such function, the Deputy Administrator shall have authority, on behalf of the Secretary, to sign documents and correspondence in his own name and to use the title "Acting Administrator" in all instances in which the Administrator, if there were no vacancy, would be authorized to act in his own name and title under the provisions of General Order No. 25 or General Order No. 45A.

It is further ordered, That General Order No. 85, dated March 26, 1955, 20 F. R. 2066, is hereby rescinded, and that this Order shall become effective immediately as an amendment to General Order No. 25 and to General Order No. 45A, in lieu of the amendment heretofore made by General Order No. 85, and shall supersede all prior orders, instructions, regulations, or memoranda of the Secretary of Labor to the extent that they are inconsistent herewith.

Signed and effective September 23, 1957.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 57-7881; Filed, Sept. 24, 1957; 8:54 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

WILBUR F. DUERINGER

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense

Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of April 10, 1956, 21 F. R. 2303; October 2, 1956, 21 F. R. 7553; March 29, 1957, 22 F.R. 2093:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of September 12, 1957.

Dated: September 12, 1957.

WILBUR F. DUERINGER.

[F. R. Doc. 57-7841; Filed, Sept. 24, 1957; 8:48 a. m.]

LOUIS F. FRAZZA

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of March 20, 1956, 21 F. R. 1737; September 8, 1956, 21 F. R. 6846; March 9, 1957, 22 F.R. 1578.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of September 5, 1957.

Dated: September 5, 1957.

LOUIS F. FRAZZA.

[F. R. Doc. 57-7842; Filed, Sept. 24, 1957; 8:48 a. m.]

EUBERT F. TAGGERT

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of March 29, 1957, 22 F. R. 2092.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of September 15, 1957.

Dated: September 15, 1957.

EUBERT F. TAGGERT.

[F. R. Doc. 57-7843; Filed, Sept. 24, 1957; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS; CORRECTION

SEPTEMBER 16, 1957.

The notice of proposed withdrawal and reservation of lands, Serial No. Sacramento 047402, Stanislaus National Forest, published in the FEDERAL REGISTER of Friday, September 6, 1957, page 7157 (F. R. Doc. 57-7293), is corrected as follows:

The land description N½SW¼ section 32, T. 7 N., R. 20 E., M. D. M., Arnot Creek Recreation Area, should have read as N½SE¼.

R. R. BEST,
State Supervisor.

[F. R. Doc. 57-7830; Filed, Sept. 24, 1957; 8:46 a. m.]

MINNESOTA

NOTICE OF PROPOSED WITHDRAWAL FOR THE RESERVATION OF LANDS

SEPTEMBER 19, 1957.

The Office of the Corps of Engineers, Department of the Army, Washington 25, D. C., has filed an application, BLM 045168, for the withdrawal of the lands described below, from grazing, timber management and disposal, mineral leasing, and mining locations and all other forms of appropriation except for use as a permanent reservoir.

The applicant desires the land for use as a part of the Sandy Lake Reservoir, Headwaters, Upper Mississippi River. The land is completely overflowed at normal or slightly above normal pool levels. It is no longer available for any use except as a part of the Sandy Lake Reservoir.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D. C.

If circumstances warrant it, a hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The land involved in the application is:

FOURTH PRINCIPAL MERIDIAN, MINNESOTA, AITKIN COUNTY

T. 49 N., R. 24 W.,
Sec. 25, Lot 11.

The area described contains 0.40 acres.

H. K. SCHOLL,
Manager.

[F. R. Doc. 57-7831; Filed, Sept. 24, 1957; 8:46 a. m.]

[Classification 47, Doc. 163]

ARIZONA

SMALL TRACT CLASSIFICATION; AMENDMENT

SEPTEMBER 17, 1957.

Effective on the date of this order, paragraph 2 of Federal Register Document 55-10458, appearing on page 10114 of the issue of December 30, 1955, is hereby amended to read as follows:

2. The lands classified by this order shall not become subject to applications under the Small Tract Act unless and until it is so provided by an order to be issued by an authorized officer of the Bureau of Land Management.

EUGENE H. NEWELL,
Acting State Supervisor.

[F. R. Doc. 57-7844; Filed, Sept. 24, 1957; 8:48 a. m.]

[Classification 177]

CALIFORNIA

SMALL TRACT CLASSIFICATION ORDER; REVOCATION

SEPTEMBER 17, 1957.

Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, under Part II, Document 4, California State Office, dated November 19, 1954 (19 F. R. 7697), I hereby revoke Small Tract Classification Order No. 177, dated July 27, 1949, to the extent of the following described lands:

MOUNT DIABLO MERIDIAN

T. 18 S., R. 42 E.,
Sec. 30; N½NE¼NE¼SW¼, SE¼NE¼NE¼SW¼, N½SW¼NE¼NE¼SW¼, N½NW¼NE¼SW¼, N½SE¼NW¼NE¼SW¼, SW¼NW¼NE¼SW¼, E½SE¼NE¼SW¼, S½SW¼SE¼NE¼SW¼, NE¼SW¼SE¼NE¼SW¼, S½SE¼SW¼NE¼SW¼, S½SW¼SW¼NE¼SW¼, NW¼SW¼SW¼NE¼SW¼, NW¼SW¼NE¼SW¼.

ROLLA E. CHANDLER,
Officer-in-Charge,
Southern Field Group,
Los Angeles, California.

[F. R. Doc. 57-7845; Filed, Sept. 24, 1957; 8:48 a. m.]

National Park Service

[Region 5 Order 3]

NATIONAL PARK SERVICE SUPERINTENDENTS ET AL.

DELEGATIONS OF AUTHORITY

SECTION 1. The National Park Service Superintendents in Region Five whose positions are allocated to Civil Service grades GS-13 and above, in the administration, operation, and development of the areas under their supervision are authorized to exercise all of the authority now or hereafter delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Appointments and status changes involving personnel in grade GS-12 and higher grades.

(b) Allocation of positions in any Civil Service grade.

(c) Establishment of ungraded positions.

(d) Establishment of wage rates.

(e) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $500, and (3) payment of the full amount of the damages is offered.

(f) Approval of preliminary plans for concessioners' projects and approval of preliminary plans which establish the architectural style in a newly developed

area or which are a departure from a previous style in an established area.

(g) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h)), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C., 1952 ed., section 484), and review of the grantees' bienniel reports and their acceptance when satisfactory.

SEC. 2. The Superintendents whose positions are allocated to Civil Service grades GS–11 and GS–12, inclusive, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Appointments and status changes involving personnel in grade GS–10 and higher grades.

(b) Allocation of positions in any Civil Service grade.

(c) Establishment of ungraded positions.

(d) Establishment of wage rates.

(e) Approval of contracts for construction, supplies, or services in excess of $50,000.

(f) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $500, and (3) payment of the full amount of the damages is offered.

(g) Approval of preliminary plans for concessioners' projects and approval of preliminary plans which establish the architectural style in a newly developed area or which are a departure from a previous style in an established area.

(h) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h), and the Federal Property and Administrative Service Act of 1949 (63 Stat. 377) as amended (40 U. S. C. 1952 ed., section 484), and review of the grantees' biennial reports and their acceptance when satisfactory.

SEC. 3. The Superintendents whose positions are allocated to Civil Service grades GS–10 and below, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Appointments and status changes involving personnel in the same Civil Service grade as, or grades higher than, the Superintendent making appointments or status changes.

(b) Allocation of positions in any Civil Service grade.

(c) Establishment of ungraded positions.

(d) Establishment of wage rates.

(e) Execution or approval of contracts for construction, supplies or services in excess of $10,000.

(f) Issuance of revocable special use permits having a term of more than three years.

(g) Acceptance of donations of personal property valued in excess of $5,000, and acceptance of donations of money in excess of $5,000.

(h) Reimbursement of employees and other owners for property lost, damaged or destroyed.

(i) Hire, rental, or purchase of personal property from employees.

(j) Sales of timber pursuant to section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U. S. C., 1952 ed., sec. 3), in excess of $1,000 for any one transaction.

(k) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $500, and (3) payment of the full amount of the damages is offered.

(l) Issuance of concession permits and contracts having a term of more than three years.

(m) Approval of preliminary plans for concessioners' projects and approval of preliminary plans which establish the architectural style in a newly developed area or which are a departure from a previous style in an established area.

(n) Periodic inspection of properties transferred to State and local agencies for park, recreation, and historic monument purposes pursuant to the act of June 10, 1948 (62 Stat. 350, 50 U. S. C., 1952 ed., section 1622 (h)), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C. 1952 ed., section 484), and review of the grantees' bienniel reports and their acceptance when satisfactory.

SEC. 4. Regional Administrative Officer: The Regional Administrative Officer may execute and approve contracts not in excess of $50,000 for construction, supplies, equipment, and services. This authority may be exercised by the Regional Administrative Officer in behalf of any office or area for which the Region Five Office serves as the field finance office.

SEC. 5. Regional Procurement and Property Officer: The Regional Procurement and Property Officer may execute and approve contracts not in excess of $5,000 for supplies, equipment, and services. This authority may be exercised by the Regional Procurement and Property Officer in behalf of any area or office for which the Region Five Office serves as the field finance office.

SEC. 6. Redelegation: The Superintendents may, in writing, redelegate to any officer or employee the authority delegated in sections 1, 2 and 3. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 7. Appeal: Except in matters relating to contracts for construction, supplies, equipment, or services, any party aggrieved by any action or decision of any Superintendent shall have a right of appeal to the Regional Director. Any such appeal shall be in writing and shall be submitted to the Regional Director within thirty days after receipt by the aggrieved party of notice of the action taken or decision made by the Superintendent.

SEC. 8. Revocation: This order supersedes Order No. 2 isued February 17, 1956, as amended.

(National Park Service Order No. 14: 39 Stat. 535; 16 U. S. C., 1952 ed., Sec. 2)

Issued this 23d day of August, 1957.

DANIEL J. TOBIN,
Regional Director.

[F. R. Doc. 57–7833; Filed, Sept. 24, 1957; 8:47 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–18]

GENERAL ELECTRIC CO.

UTILIZATION FACILITY LICENSE; AMENDMENT

Please take notice that the Atomic Energy Commission has issued the following amendment (No. 1) to License CX–2 authorizing General Electric Company, in conducting critical experiments under this license, (1) to increase the number of plates per fuel element from the previously authorized six to a total of up to twelve and (2) to perform critical experiments under the condition that the void coefficient is negative and the temperature coefficient is such that the total amount of reactivity that could be added to the reactor as a result of heating up from room temperature to the boiling point does not exceed 75 cents of reactivity worth.

Notice of proposed issuance of the original license was published in the FEDERAL REGISTER on July 12, 1957, 22 F. R. 4919. The notice annexed the proposed license and a memorandum summarizing the principal features of the facility and the principal factors consided in reviewing the application for a license. The license was issued on July 29, 1957, and notice of the issuance was published in the FEDERAL REGISTER on August 3, 1957, 22 F. R. 6258.

Prior public notice of proposed issuance of this amendment is not required in the public interest because the proposed modifications do not involve material alterations of the facility and do not present substantial questions affecting health and safety which were not resolved in connection with the licensee's application for the original license. Further details may be obtained by examination of Docket No. 50–18 on file in the AEC Public Document Room, located at 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 18th day of September 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[Docket No. 50–18]

[License No. CX–2 Amdt. 1]

GENERAL ELECTRIC CO.

AMENDMENT OF UTILIZATION FACILITY LICENSE

On September 3, 1957, General Electric Company filed two amendments, designated Amendment No. 10 and Amendment No. 11, to its application for license to operate its

developmental boiling water reactor as a critical experiment facility.

The Atomic Energy Commission has found that modification of the facility as proposed in the amendments filed by General Electric Company on September 3, 1957, will not be inimical to the common defense and security or to the health and safety of the public.

Paragraph I of Appendix "A" of License No. CX-2 issued to General Electric Company on July 29, 1957, is hereby amended to read as follows:

Operating restrictions. Unless further authorized by the Commission:

a. General Electric Company shall operate the facility for the conduct of the critical experiments described in its application and in its requests for license amendment filed on September 3, 1957 (designated by GE as Amendments Nos. 10 and 11 to its application for license) and in accordance with the procedures and limitations governing these experiments described in the application and requests for license amendment filed on September 3, 1957.

Under this license, as amended, the licensee will initially determine the values of the void and temperature coefficients. Further critical experiments, such as those described in Amendment No. 7 of the application for license, may be conducted only under conditions that the void coefficient at all temperatures is negative and the temperature coefficient is such that the total amount of reactivity that could be added to the reactor as a result of heating up from room temperature to the boiling point does not exceed 75 cents of reactivity worth.

b. GE shall not operate the facility at power levels in excess of 1,000 watts.

Date of Issuance: September 18, 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-7823; Filed, Sept. 24, 1957; 8:45 a. m.]

[Docket No. 50-84]

REGENTS OF UNIVERSITY OF CALIFORNIA

NOTICE OF PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission purposes to issue a facility license to the Regents of the University of California, Berkeley, California, substantially in the form 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 attached 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 17th day of September 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 August 26, 1957, the Regents of the University of California, (hereinafter "University of California") Berkeley, California, filed an application to acquire, possess, and operate a nuclear reactor which has been designated as Model AGN-201, Serial No. 112, and which is authorized for construction by Construction Permit CPRR-13, dated July 8, 1957, and issued to Aerojet-General Nucleonics, San Ramon, California. An amendment to the application was filed on August 30, 1957. The application also seeks authorizations relating to special nuclear material and byproduct 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 I, CFR, Part 50, "Licensing of Production and Utilization Facilities".

B. There is reasonable assurance that the applicant will comply with the regulations in Chapter I, of Title 10 of the Code of Federal 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 California, filed August 26, 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 University of California, in the application in Docket 50-84 will not be inimical to the common defense and security or to the health and safety of the public.

D. The University of California 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 California is financially qualified to operate the reactor in accordance with the regulations contained in Title 10, Chapter I, 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. The University of California is technically qualified to operate the reactor.

Subject to the conditions and requirements incorporated herein, the Atomic Energy Commission hereby licenses the University of California 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 Berkeley, California, described in the application in Docket 50-84.

B. Pursuant to the act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to receive, possess, and use up to 700 grams of contained uranium 235 for use in connection with 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:

1. The reactor shall be operated only in accordance with instructions from the Chief Reactor Supervisor.

2. The reactor shall not be operated unless the University of California has an individual as Chief Reactor Supervisor who has been approved by the Commission.

3. When unattended the reactor shall be secured with the standard seals and locks supplied by the manufacturer; at such times as the reactor is in a dismantled state, access shall be limited to authorized persons by means of a guard or locked enclosure, locked room, or locked building.

4. The University of California shall operate the reactor in accordance with the procedures described in its application filed August 26, 1957, as such procedures may be further amended by this license.

5. The University of California shall not operate the reactor at power levels in excess of 100 milliwatts without previous authorization from the Commission.

6. In addition to those otherwise required under this license and applicable regulations the University of California 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 California as measured at the point of such release or discharge.

d. Records of emergency reactor scrams, including reasons for emergency shutdowns.

7. The University of California shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

This license shall expire 20 years from the date of issuance hereof unless sooner terminated.

Date of Issuance:

For the Atomic Energy Commission,

———— ————,
Director,
Division of Civilian Application.

ANNEX "B"

MEMORANDUM

The utilization facility proposed to be acquired and operated by the University of California is a small reactor of 100 milliwatt maximum power level to be constructed by Aerojet-General Nucleonics, San Ramon, California, and designated by the Company as Model AGN-201, Serial No. 112. It is presently authorized for construction by Construction Permit CPRR-13, dated July 8, 1957, and issued to Aerojet-General Nucleonics. The notice of proposed issuance of CPRR-13, published in the FEDERAL REGISTER on June 19, 1957, 22 F. R. 4329, provided that the Commission may without further prior public notice convert the construction permit to a Class 104 license authorizing operation of the reactor by Aerojet-General Nucleonics and the transfer of possession of or title to the reactor, or both, to any person licensed to acquire it, if it is found that the reactor has been constructed in accordance with the specifications contained in the application for the construction permit and in conformity with the provisions of the act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission that the granting of such license would not be in accordance with the provisions of the act.

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 Model AGN–201 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 in Docket F–32 published in the FEDERAL REGISTER on February 6, 1957, 22 F. R. 742.

Description of site. The reactor will be housed in a laboratory in Room 153 on the first floor of Cory Hall, a building located on the University of California campus in Berkeley, California. The building is reinforced concrete shell and frame. Internal dividing walls are of plaster on metal lath. The reactor will be located in one half of Room 153, which is a room 106 feet long by 24 feet wide. The Physical Standards Laboratory utilizes the other half of Room 153. The applicant states that three persons are permanently stationed in the area. The rest of the building is used for class rooms, shops, research laboratories, faculty offices and various administrative offices. The applicant states that the estimated maximum capacity of Cory Hall is 1008 persons, with in and out traffic estimated at 200 persons per hour maximum for the entire building and traffic past Room 153 estimated at 90 persons per hour. The proposed license incorporates a condition that when the reactor is unattended it shall be secured with the standard seals and locks supplied by the manufacturer and at such times as the reactor is in a dismantled state, access shall be limited to authorized persons by means of a guard or locked enclosure, locked room, or locked building.

Hazards analysis. The hazards and safety features associated with this reactor were discussed in the aforementioned memorandum published in the FEDERAL REGISTER on February 6, 1957, 22 F. R. 742.

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 operation at the University of California 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 the University of California places responsibility for the promulgation and enforcement of administrative rules, regulations and operating procedures on the Chief Reactor Supervisor. In view of these important functions assigned to the Chief Reactor Supervisor, the evaluation of the technical qualifications of the University of California to operate the reactor in a safe and competent manner must to a large measure rely on the qualifications of the individual in that position.

The University has designated Dr. Nathan William Snyder as Chief Reactor Supervisor. Dr. Snyder, who is Associate Professor of Mechanical Engineering and Graduate Adviser of Nuclear Engineering Program at the University has completed the one-week Aerojet-General Nucleonics training course. Dr. Snyder also has been a participant in the Nuclear Engineering Instructional Program since 1955.

In view of the qualifications and position of Dr. Snyder and considering the background of various other members of the University of California's staff it is concluded that the University is technically qualified to operate the reactor.

Financial qualifications. The University of California has received a grant from the AEC to cover the approximately $95,000 purchase price of the reactor. The annual operating expenses are estimated at $5,000 and the University has stated that it has budgeted this amount for the coming fiscal year and will continue to do so in the future.

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 the operation of the reactor at the proposed site on the University of California campus.

b. The University of California is technically and financially qualified to engage in the proposed activities.

Date: September 17, 1957.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57–7824; Filed, Sept. 24, 1957; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11888, 11889; FCC 57M–875]

JEFFERSON COUNTY BROADCASTING CO. AND KERMIT F. TRACY

NOTICE SCHEDULING CONFERENCE

In re applications of Louis Alford, Phillip D. Brady and Albert Mack Smith, d/b as Jefferson County Broadcasting Company, Pine Bluff, Arkansas, Docket No. 11888, File No. BP–10528; Kermit F. Tracy, Fordyce, Arkansas, Docket No. 11889, File No. BP–10691; for construction permits.

At 10:00 a. m. on September 27, 1957, at the offices of the Commission a conference will be held looking toward reopening the record and hearing on the two issues designated by the Commission in its order in this proceeding dated August 1, 1957, released August 8, 1957 (FCC 57–843).

Dated: September 19, 1957.

Released: September 19, 1957.

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

[F. R. Doc. 57–7846; Filed, Sept. 24, 1957; 8:49 a. m.]

[Docket No. 12070; FCC 57M–873]

ST. CHARLES COUNTY BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of St. Charles County Broadcasting Company, St. Charles, Missouri, Docket No. 12070, File No. BP–11066; for construction permit.

At the oral request of the applicant and without objection from the Chief of the Broadcast Bureau: *It is ordered,* This 19th day of September, 1957, that hearing in the above-entitled proceeding, now scheduled for September 23, 1957, is continued to October 14, 1957.

Released: September 19, 1957.

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

[F. R. Doc. 57–7847; Filed, Sept. 24, 1957; 8:49 a. m.]

[Docket Nos. 12111, 12112; FCC 57M–874]

K. C. LAURANCE AND PHILIP D. JACKSON

ORDER AFTER PREHEARING CONFERENCE CONTINUING HEARING

In re applications of K. C. Laurance, Medford, Oregon, Docket No. 12111, File No. BP–10622; Philip D. Jackson, Weed, California, Docket No. 12112, File No. BP–11268; for construction permits.

Appearances: Mr. Charles V. Wayland and Mr. Richard Hildreth of Washington, D. C. on behalf of K. C. Laurance; Mr. Samuel Miller of Washington, D. C. on behalf of Philip D. Jackson; and Mr. Ray Paul of Washington, D. C. on behalf of the Chief, Broadcast Bureau, Federal Communications Commission.

1. A prehearing conference was held on September 11, 1957, at which the parties were represented by counsel as shown in the statement of appearances above. The matters discussed and determined upon are shown in Transcript Volume 1, pages 1–44, which is made a part of the record herein; the rulings, agreements, and determinations there made are set out in this order.

2. Each applicant seeks a construction permit for a new standard broadcast station to be operated daytime only with one kilowatt power on 800 kilocycles, one at Medford, Oregon and the other at Weed, California. The proposals involve mutually destructive interference and the Commission's order of designation found each applicant to be legally, technically, financially, and otherwise qualified to receive a grant except as may appear from the hearing issues which are as follows:

1. To determine the areas and populations which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether a grant of the application of Philip D. Jackson would be in contravention of the provisions of § 3.35 of the Commission's rules on multiple ownership.

3. To determine whether the application of Philip D. Jackson was filed for the purpose of impeding, obstructing or delaying a determination on the application of K. C. Laurance.

4. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would better provide a fair, efficient and equitable distribution of radio service.

5. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

The hearing was scheduled to be commenced on Wednesday, October 9, 1957, but the date must be continued to permit accomplishment of the procedures determined upon in the conference as hereinafter set out.

3. The applicants plan to offer engineering and technical evidence under Issues 1 and 4 substantially identical with the engineering information submitted with their applications; however, Bureau counsel pointed out that the other broadcast services available in the

area involved are not now shown, and evidence on such matters will be prepared. It was recognized that informal conferences among the engineers for the applicants and for Bureau are not feasible because the applicants' engineers do not reside in the Washington area; hence, it was agreed that on or before September 25, 1957, each participant, including Bureau, will give informal notification by letter, with copy to other parties, of any questions or requests for additional information concerning the engineering showing to be made as indicated in the applications. It was further agreed that on or before October 9, 1957, the applicants will notify each other and Bureau of the tentatively proposed engineering case testimony and exhibits. Suggestions or requests for additional or modified engineering evidence will then be informally exchanged among the parties in order that the final engineering exhibits may meet the issues without needless cross-examination or controversy. The direct affirmative case testimony and exhibits in final form will be notified to all parties on or before October 23, 1957.

4. With respect to Issue 4, direct affirmative case exhibits, in addition to those above discussed, will be developed after informal conferences among the attorneys for the parties in order to present competent, probative, and relevant evidence upon the choice of communities issue. It was pointed out that the issues do not permit inquiry concerning the program services proposed or available in the respective communities, nor is it relevant to inquire into the respective communities' characteristics and program needs to any greater extent than is permitted under the Commission holdings in Courier-Times, Inc., 13 RR 1290 and 1292.

5. It was recognized that the applicant Jackson has the burden of proceeding and the burden of proof under Issues 2 and 3, and the notification of the direct affirmative case exhibits, as herein provided for, will include the showing in chief to be made by Jackson under those issues. It was agreed that Issues 2 and 3 are not comparative issues, but rather require independent determinations concerning the Jackson proposal and his qualifications to become a grantee in this proceeding.

6. Under Issue 2 Jackson will offer, in addition to such engineering and other evidence as may be relevant, evidence concerning the past program services of Station KLAD, the program service proposed by the authorized Redding, California, station in which Jackson owns an interest, and the program service proposed in the instant application. It was pointed out that the program evidence will be received and considered only in making the findings and conclusions called for under Issue 2; such program evidence will not be available for making the determinations required under Issues 4 and 5. (See Courier-Times, Inc., supra, and Memorandum Opinion and Order After First Prehearing Conference in Stephenville Broadcasting Company, FCC 56M-669, Mimeo No. 34302, released July 11, 1956.)

7. The parties agreed that, in addition to the preliminary notification procedures concerning the engineering evidence as hereinabove set out, the direct affirmative case exhibits, as required by § 1.841 of the Commission's rules upon all matters at issue, will be notified by exchange to the other parties on or before Wednesday, October 23, 1957, and that a further prehearing conference as provided for in the cited rule should be convened on Wednesday, October 30, 1957. The procedural schedule agreed upon necessitates a postponement of the hearing from the originally assigned date of October 9, 1957, and it was agreed that the time for the commencement of the hearing can best be ascertained at the further prehearing conference. The matters determined and agreed upon at the prehearing conference, as set out hereinabove, were and are approved by the Hearing Examiner.

8. All of the prehearing conference discussions and the resulting determinations were had and made in recognition of the fact that there are pending and undecided before the Commission a motion and related pleadings seeking and opposing enlargement of the issues herein. In the event that Commission action thereon justifies a reconsideration or readjustment of the procedures determined upon as herein stated, appropriate consideration will be given thereto.

It is ordered, This 19th day of September 1957, that, unless modified for cause or pursuant to the Commission's rules, the foregoing statements and provisions to the extent of their applicability shall govern the conduct of the hearing in this proceeding; and

It is further ordered, That the hearing in this proceeding now scheduled to be commenced on October 9, 1957, is continued to a date to be fixed by subsequent order, and that the parties or their attorneys shall appear at the offices of the Commission in Washington, D. C. at 10:00 a. m. on Wednesday, October 30, 1957, for a further prehearing conference.

Released: September 20, 1957.

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

[F. R. Doc. 57-7848; Filed, Sept. 24, 1957; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SR-2221]

CHARLES A. HAZEN

NOTICE OF ORAL ARGUMENT

James T. Pyle, Administrator of Civil Aeronautics, Complainant, v. Charles A. Hazen, Respondent.

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 October 10, 1957, at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board. The Administrator has been allotted 30 minutes; and counsel for Charles A. Hazen, 30 minutes to be presented in that order. The Administrator may reserve one-quarter of his allotted time for rebuttal.

Dated at Washington, D. C., September 20, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-7856; Filed, Sept. 24, 1957; 8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3614]

CONSOLIDATED NATURAL GAS CO.

ORDER AUTHORIZING EXECUTION OF REFUNDING BOND BY HOLDING COMPANY AS SURETY FOR PUBLIC UTILITY SUBSIDIARY

SEPTEMBER 18, 1957.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, has filed a declaration pursuant to section 12 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-45 thereunder, regarding the following proposed transaction:

On March 11, 1957, Consolidated's wholly owned public-utility subsidiary Hope Natural Gas Company ("Hope") filed new rate schedules with the Public Service Commission of West Virginia providing for rate increases approximating $2,300,000 per year, allegedly necessitated by increased operating costs. By action of the State commission the effectiveness of the new rates was suspended until August 29, 1957. The new rates may now become effective upon the filing by Hope of a bond in the amount of $2,300,000, with satisfactory surety, for the due and proper payment of any refunds which the State commission may order. The State commission has indicated that Consolidated may sign as surety for Hope.

Due notice having been given of the filing of said declaration (Holding Company Act Release No. 13540), and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the declaration be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said declaration be, and hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-7836; Filed, Sept. 24, 1957; 8:47 a. m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 306]

SECRETARY OF THE INTERIOR

EXECUTION OF REAL ESTATE LEASES IN ANCHORAGE, ALASKA, NOT IN EXCESS OF THREE YEARS

1. Pursuant to the authority vested in me by the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, (hereinafter referred to as "the Act"), and in accordance with section 3 of the act of August 27, 1935 (40 U. S. C. 304c), as amended, authority is hereby delegated to the Secretary of Interior of the United States to acquire space by lease on such terms and for such periods not in excess of three years as he may deem in the public interest for the housing of any component of the Department of Interior in Anchorage, Alaska, and to execute any leases, documents or instruments which may be necessary in connection therewith.

2. Any lease executed pursuant to the authority hereby delegated, may be amended or renewed from time to time, provided that no renewal for a term in excess of one year shall be entered into without the prior written approval of the Administrator of General Services.

3. The authority conferred herein shall be exercised in accordance with the acts above cited, all other applicable laws, and regulations issued pursuant thereto.

4. The authority delegated herein may be redelegated to any officer or employee of the Department of Interior.

This delegation shall become effective as of the date hereof, and shall continue until June 30, 1958: *Provided*, That any lease executed prior to said date may be amended or renewed, as authorized by paragraph 2 hereof, at any time during the term or any extension thereof.

FRANKLIN G. FLOETE,
Administrator.

SEPTEMBER 18, 1957.

[F. R. Doc. 57-7835; Filed, Sept. 24, 1957; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 183]

MOTOR CARRIER APPLICATIONS

SEPTEMBER 20, 1957.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR 1.241.)

All hearings will be called at 9:30 o'clock a. m., United States Standard Time (or 9:30 o'clock a. m., local Daylight Saving Time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 173 (Sub No. 4), filed July 15, 1957, ABBT MOTOR TRANSPORTATION CO., INC., 201 Brookline St., Cambridge, Mass. Applicant's representative: Arthur A. Wentzell, 539 Hartford Pike, Shrewsbury, Mass. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Bakery products*, such as cakes, cookies, crackers, *bakery products*, not otherwise specified, and *advertising material* used in connection therewith, from Cambridge, Mass., to Dover, N. H. *Empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified, on return. Applicant is authorized to transport similar commodities from and to points in Massachusetts, New Hampshire, Rhode Island, Connecticut and Maine.

HEARING: November 12, 1957, at the New Post Office & Court House Building, Boston, Mass., before Joint Board No. 20, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 531 (Sub No. 84) (CORRECTION), filed July 29, 1957, published issue September 11, 1957, at page 7248, YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, Tex. Applicant's attorney: Ewell H. Muse, Jr., 415 Perry Brooks Bldg., Austin, Tex.

HEARING: December 2, 1957, at the Federal Office Building, Franklin & Fannin Sts., Houston, Tex., before Examiner Mack Myers. The notice gave December 12, 1957 as the date of hearing. This was in error, the correct date is *December 2, 1957*.

No. MC 6380 (Sub No. 5), (Correction), published issue September 5, 1957, at page 7114, filed August 9, 1957, R. F. TRUESDELL, INC., 1616 West 47th St., Ashtabula, Ohio. Applicant's attorney: Edwin C. Reminger, Standard Bldg., Cleveland 13, Ohio. The notice was correct except for the name of the city *"Oswego"* appearing on the third line, first column, Page 7114. This should read *"Owego, N. Y."*

HEARING: Remains as assigned October 15, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Frank R. Saltzman.

No. MC 8283 (Sub No. 6), filed August 7, 1957, NIGRO FREIGHT LINES, INCORPORATED, Main St., Farmington, Conn. Applicant's attorney: Carmine Garofalo, 3814 Alton Place, N. W., Washington 16, D. C. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, liquors, commodities in bulk and those requiring special equipment, serving Enfield, Conn., as an off-route point in connection with applicant's authorized regular route operations to and from Atlanta, Ga. RESTRICTION: Proposed operations to be restricted to the interchange of freight only. Applicant is authorized to transport the commodities specified in Connecticut, Georgia and Pennsylvania, and other commodities in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania and Rhode Island.

HEARING: October 29, 1957, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 227, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 52855 (Sub No. 2), filed June 10, 1957, ALVAH T. LONGLEY, 59 South Main St., Concord, N. H. Applicant's attorney: Joseph Kovner, 88 North Main Street, Concord, N. H. For authority to operate as a *common carrier*, over irregular routes, transporting: *Logging* and *road construction machinery and equipment and commodities*, the transportation of which because of size or weight requires the use of special equipment, and *related machinery parts* and *related contractors materials and supplies*, when transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, between points in Merrimack and Belknap Counties, N. H., on the one hand, and, on the other, points in New Hampshire, Maine, Vermont, Massachusetts, Rhode Island, and Connecticut.

NOTE: Applicant has contract carrier irregular route authority in Permit No. MC 18383, dated December 16, 1953—Section 210 (dual authority) may be involved.

HEARING: November 1, 1957, at the New Hampshire Public Service Commission, Concord, N. H., before Examiner Lacy W. Hinely.

No. MC 96165 (Sub No. 3), filed July 18, 1957, IRENE DEL FARNO, ADMINISTRATRIX, ESTATE OF THOMAS DEL FARNO, 10 Ward Avenue, North Providence, R. I. Applicant's representative: Russell B. Curnett, 49 Weybosset St., Providence, R. I. For authority to operate as a *common carrier*, over irregular routes, transporting: *Monuments*, and *cast or natural stone*, from Providence and North Providence, R. I., to points in Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont and New York.

NOTE: Applicant's representative states that applicant is authorized to transport monuments and cast stone from the above origin points to the above destination points, and the purpose of this application is to include the commodity natural stone.

HEARING: November 13, 1957, in Room 308, Main Post Office Building, Providence, R. I., before Examiner Lacy W. Hinely.

No. MC 96165 (Sub No. 4), filed July 18, 1957, IRENE DEL FARNO, ADMINISTRATRIX, ESTATE OF THOMAS DEL FARNO, 10 Ward Ave., North Providence, R. I. Applicant's representative: Russel B. Curnett, 49 Weybosset St., Providence, R. I. For authority to operate as a *common carrier*, over irregular routes, transporting: *Natural stone*, in bulk, in dump trucks or in dump semi-trailers, from Uxbridge, Mass., to points in Connecticut, Rhode Island, Massachusetts,

Maine, New Hampshire, Vermont and New York. Applicant is authorized to conduct operations in Rhode Island, Connecticut, Massachusetts, Maine, New Hampshire, Vermont and New York.

HEARING: November 13, 1957, in Room 308, Main Post Office Building, Providence, R. I., before Examiner Lacy W. Hinely.

No. MC 103066 (Sub No. 12) (Revision), published September 11, 1957 issue, at page 7254, filed March 18, 1957, VAN STONE, doing business as STONE TRUCKING CO., P. O. Box 2014, 1516 West 49th Street, Tulsa, Okla. Applicant's attorney: W. T. Brunson, 508 Leonhardt Building, Oklahoma City 2, Okla. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Tractors* (other than truck tractors) *tractor tool bars* and *tractor attachments*, (2) *contractors equipment* and *contractors equipment attachments*, (3) *construction machinery and equipment* as defined by the Commission in Appendix VIII to MC-45, 61 M. C. C. 286, (4) *road and street building and maintenance machinery and equipment, including motor graders, scarifiers, street sweepers, snow plows* and *attachments*, (5) *excavating, dirt moving, loading and unloading machinery and equipment, and attachments*, (6) *internal combustion, radial, rocket, nuclear powered and jet propulsion engines*, and *accessories*, with or without electrical generators attached, and *empty containers*, (7) *cranes, derricks, lift trucks* and *attachments*, (8) *motor vehicles* (other than conventional autos) inoperative and not loaded under their own power, (9) *logging and mining machinery, equipment* and *attachments*, (10) *lathes* and *machine shop machinery* and *equipment*, (11) *printing presses, accessories* and *attachments*, (12) *generators and boilers*, (13) *electrical welders* and *weld rods*, plain or flux coated, (14) *airplanes*, (15) *castings*, (16) *artillery, artillery carriages, gun barrels, half-tracks, tanks, tank engines*, and *cargo or freight trailers*, (17) *conex, seal bins*, and *plastic or metal containers*, empty or fully loaded, (18) *buildings, silos* and *grain or feed storage bins*, knocked down or erected, (19) *steel, bar, plate, sheet*, or *structural*, singularly or in bundles, (20) *heavy machinery* and *attachments*, (21) *commodities* the loading, unloading or transportation of which, because of size, weight, or shape, require the use of special equipment, special rigging, or special handling. RESTRICTION: In instances of overlapping in the above commodity descriptions, applicant seeks only one right. Applicant agrees that the above commodity descriptions shall be non-severable by sale or otherwise. (22) *Machinery, equipment, materials* and *supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (23) *machinery, materials, equipment* and *supplies*, used in or in connection with the construction, operations, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof. (1) Between points in Arizona, Colorado, and (2) between points in Oklahoma, Kansas and Texas, on the one hand, and, on the other, points in Utah, Arizona, that part of Colorado bounded on the north by U. S. Highway 50, and on the east by U. S. Highway 285, and that part of New Mexico bounded on the east by U. S. Highway 285, and on the south by U. S. Highway 60.

HEARING: November 4, 1957, at the Hilton Hotel, Albuquerque, N. Mex., before Examiner Allen W. Hagerty.

No. MC 107107 (Sub No. 90) (CORRECTION), filed June 18, 1957, published September 18, 1957, issue, page 7441, ALTERMAN TRANSPORT LINES, INC., 3424 N. W. 46th Street, Miami, Fla., Mailing address: P. O. Box 65, Allapattah Station, Miami, Fla. Applicant's attorney: Frank B. Hand, Jr., Transportation Bldg., Washington, D. C. The notice as published gave the No. *MC 10717* (Sub No. 90), which is in error. The correct number is No. MC 107107 (Sub No. 90).

No. MC 112750 (Sub No. 24), filed August 5, 1957, ARMORED CARRIER CORPORATION, De Bevoise Bldg., Bayside, L. I., N. Y. Applicant's attorney: James K. Knudson, Sundial House, 1821 Jefferson Place, Washington 6, D. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Such commercial papers, documents* and *written instruments*, except currency, coin, bullion, and negotiable instruments, as are used in the businesses of banks and banking institutions when transported in containers other than trace-alarm bags and in vehicles other than armored vehicles, between Boston, Mass., and New York, N. Y. Applicant is authorized to conduct operations in Connecticut, Delaware, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

HEARING: November 12, 1957, at the New Post Office & Court House Building, Boston, Mass., before Examiner Lacy W. Hinely.

No. MC 113475 (Sub No. 5), filed September 6, 1957, GEORGE C. RAWLINGS, Purdy, Va. Applicant's attorney: Henry E. Ketner, State Planters Bank Bldg., Richmond 19, Va. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Lumber*, from points in Virginia on and east of a line beginning at the North Carolina-Virginia State line and extending along U. S. Highway 29 to Lynchburg, Va., and on and south of a line beginning at Lynchburg, Va., extending along U. S. Highway 460 to Blackstone, Va., thence on and south of a line beginning at Blackstone, Va., extending along Virginia State Highway 40 to Waverly, Va., thence on and south of a line beginning at Waverly, Va., extending along U. S. Highway 460 to Suffolk, Va., thence on and west of a line beginning at Suffolk, Va., extending along Virginia State Highway 32 from Suffolk, Va., to the North Carolina-Virginia State line, to New York, N. Y. and points in Delaware, Maryland, New Jersey, Pennsylvania, Ohio, West Virginia, Massachusetts, Connecticut, Vermont, Rhode Island, Michigan, Indiana, Kentucky, Tennessee, North Carolina and the District of Columbia, (except where applicant is now authorized to haul lumber, namely, from Alberta, Dinwiddie, Smoky Ordinary and Stony Creek, Va., to the District of Columbia, and New York, N. Y., and points in Delaware, Maryland, New Jersey, Ohio, Pennsylvania and West Virginia); (2) *Wooden boxes* and *box shooks*, from Emporia and Lawrenceville, Va., to points in Massachusetts, Connecticut, Vermont, Rhode Island, Michigan, Indiana, Kentucky, Tennessee and North Carolina. Applicant is authorized to conduct operations in Virginia, Delaware, District of Columbia, Maryland, New Jersey, Ohio, Pennsylvania, West Virginia and New York.

NOTE: Duplicating authority should be eliminated.

HEARING: October 28, 1957, at the U. S. Court Rooms, Richmond, Va., before Examiner Harold P. Boss.

No. MC 114364 (Sub No. 25), filed April 15, 1957, WRIGHT MOTOR LINES, INC., 16th & Elm, Rocky Ford, Colo. Applicant's attorney: Marion F. Jones, Suite 526 Denham Bldg., Denver 2, Colo. For authority to operate as a *common carrier*, over irregular routes, transporting: *Sugar*, from Garden City, Kans., to points in Oklahoma, Kansas, and those in that part of Texas bounded by a line beginning at the New Mexico-Texas State Line and extending east along U. S. Highway 180 to junction U. S. Highway 87, thence along U. S. Highway 87 to junction U. S. Highway 80, thence along U. S. Highway 80 to junction U. S. Highway 75, thence north along U. S. Highway 75 to the Texas-Oklahoma State Line, thence northwesterly along the Texas-Oklahoma State Line to the New Mexico-Texas State Line, and thence south along the New Mexico-Texas State Line to point of beginning, including points on the indicated portion of the highways specified, for storage in transit purposes, in connection with applicant's continued movement from Torrington, Wyo., and Swink, Colo., to the destination points here set out. Applicant is authorized to transport sugar in Colorado, Oklahoma, Wyoming, Kansas, Idaho, Utah, Missouri, New Mexico, Arkansas, and Texas.

HEARING: Remains as assigned October 8, 1957, at the Federal Bldg., Oklahoma City, Okla., before Examiner James C. Cheseldine.

No. MC 116399 (Sub No. 2), filed July 31, 1957, FLOYD VESTAL DULL, Route 5, Mocksville, N. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Fertilizer*, in bulk or in bags, from the site of the Richmond Guano Co. near Richmond, Va., to farm sites in Davie, Yadkin and Surry Counties, N. C.

HEARING: October 28, 1957, at the U. S. Court Rooms, Richmond, Va., before Joint Board No. 7, or if the Joint Board waives its right to participate before Examiner Harold P. Boss.

No. MC 116529, filed March 18, 1957, GUY M. WILLIS, P. O. Box 1663, Abilene, Tex. Applicant's attorney: W. D. White, 17th Floor Mercantile Bank Bldg., Dallas 1, Tex. For authority to operate as a

common carrier, over irregular routes, transporting: *Crude Oil*, in bulk, in tank vehicles, (1) between points in San Juan County, Utah; and (2) between points in San Juan County, Utah, and points in San Juan County, N. Mex.

HEARING: October 28, 1957, at Hotel Paso Del Norte, El Paso, Tex., before Examiner Allen W. Hagerty.

No. MC 116632 (Sub No. 2), filed June 14, 1957, MOHOLLAND BROS., INC., Woodland, Maine. Mailing address: Box 208, Princeton, Maine. Applicant's attorney: William D. Pinansky, 403–4–5 Clapp Memorial Bldg., 443 Congress St., Portland 3, Maine. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, (1) from the port of entry at or near Calais, Maine on the international boundary line between the United States and Canada to points in Maine, Massachusetts and Connecticut; (2) from points in Washington County, Maine to the port of entry at or near Calais, Maine on the international boundary line between the United States and Canada; (3) from points in Washington County, Maine to points in Massachusetts and Connecticut.

HEARING: November 8, 1957, at the Federal Building, Portland, Maine, before Examiner Lacy W. Hinely.

No. MC 116637 (Sub No. 1), filed June 5, 1957, WILLIAM C. ROBINSON, Columbia, Conn. Applicant's attorney: Robert D. King, 3 Park St., Rockville, Conn. For authority to operate as a *contract carrier*, over regular routes, transporting: *Granular fertilizer*, in bulk, in seasonal operations between April 1 and October 31 of each year, from North Cambridge, Mass. to Columbia, Conn., from North Cambridge over Massachusetts Highway 28 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to junction U. S. Highway 20, thence over U. S. Highway 20 to junction Massachusetts Highway 15, thence over Massachusetts Highway 15 to junction Connecticut Highway 15, thence over Connecticut Highway 15 to junction Connecticut Highway 32, thence over Connecticut Highway 32 to junction U. S. Highway 6, thence over U. S. Highway 6 to junction U. S. Highway 6–A, and thence over U. S. Highway 6–A to Columbia.

HEARING: October 29, 1957, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 22, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 116785, filed July 2, 1957, GRAYROD TRUCKING CO., INC., 407 No. Pearl Street, Albany, N. Y. Applicant's attorney: Jack Goodman, National Savings Bank Building, 90 State Street, Albany, N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Alcoholic beverages*, from Hartford, Conn., to Albany and Newburgh, N. Y.

HEARING: October 29, 1957, at the U. S. Court Rooms, Hartford, Conn., before Joint Board No. 191, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 116831, filed July 24, 1957, DONALD HILLIARD, doing business as DON HILLIARD TRUCKING, R. F. D. No. 1, New Boston, N. H. Applicant's representative: Robert I. Eaton, 814 Elm St., Manchester, N. H. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Limestone products, including agricultural land lime*, from Lee, Mass., to points in Cheshire, Hillsboro, Merrimack and Rockingham Counties, N. H.

HEARING: November 5, 1957, at the New Hampshire Public Service Commission, Concord, N. H., before Joint Board No. 20, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 116834 (Sub No. 1), (Revision) published issue September 11, 1957, at page 7260, filed August 8, 1957, JAMES P. PHILLIPS, doing business as J. P. PHILLIPS TRUCKING, 853 Sixth St., Petaluma, Calif. Applicant's representative: Pete H. Dawson, Suite 306, 717 Market St., San Francisco, Calif. For authority to operate as a *common carrier*, over regular routes, transporting: (1) *Frozen fish* and *frozen fish sticks*, from Santa Rosa, Calif., to Seattle, Wash., from Santa Rosa over U. S. Highway 101 to junction of California Highway 37, thence over California Highway 37 to the junction of California Highway 48, thence over California Highway 48 to the junction of U. S. Highway 40, thence over U. S. Highway 40 to the junction of U. S. Highway 99W, thence over U. S. Highway 99W to the junction of U. S. Highway 99, thence over U. S. Highway 99 to Seattle, serving the intermediate point of Portland, Oreg.; (2) *Frozen shrimp* and *crabmeat*, in cans, from Bodega Bay, Calif., to Seattle, Wash., from Bodega Bay over California Highway 1 to Tomales, thence over county road to Petaluma, thence over U. S. Highway 101 to the junction of California Highway 37, thence over California Highway 37 to the junction of California Highway 48, thence over California Highway 48 to the junction of U. S. Highway 40, thence over U. S. Highway 40 to the junction of U. S. Highway 99W, thence over U. S. Highway 99W to the junction of U. S. Highway 99, thence over U. S. Highway 99 to Seattle, serving Portland, Oregon as an intermediate point.

HEARING: Remains as assigned November 4, 1957, at Room 226, Old Mint Bldg., Fifth and Mission Sts., San Francisco, Calif., before Joint Board No. 5, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

MOTOR CARRIERS OF PASSENGERS

No. MC 287 (Sub No. 3), filed July 11, 1957, PLYMOUTH & BROCKTON STREET RAILWAY CO., a Corporation, 109 Sandwich Street, Plymouth, Mass. Applicant's attorney: Louis J. Ferrari, 73 Tremont Street, Boston 8, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage*, in special round-trip operations, restricted to the transportation of passengers who at the time are travelling from the designated origin points to the designated destination and return for the purpose of participating in games commonly referred to as beano and bingo games, from Plymouth, Rockland, Randolph, Stoughton and Brockton, Mass., to Central Falls, R. I., and return.

HEARING: November 6, 1957, at the New Post Office & Court House Building, Boston, Mass., before Joint Board No. 18, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 3647 (Sub. No. 222), filed August 14, 1957, PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, N. J. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, between Atlantic City, N. J. and Ocean City, N. J., from Atlantic City over unnumbered highways through Ventnor, Margate City and Longport to Ocean City, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia.

HEARING: October 29, 1957, at the N. J. Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N. J., before Joint Board No. 119.

No. MC 96345 (Sub No. 1), filed July 25, 1957, SOUTHERN MASSACHUSETTS BUS LINES, INC., 17 Swift St., New Bedford, Mass. Applicant's attorney: Kenneth B. Williams, 89 State St., Boston 9, Mass. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage, newspapers*, and *packages* weighing not over 60 pounds each, in the same vehicle with passengers, between Newport, R. I., and Boston, Mass., from Newport over Rhode Island Highway 138 to the Rhode Island-Massachusetts State line, thence over Massachusetts Highway 138 to the junction of Amvets Memorial Highway, (commonly called Fall River Express Way), thence over the Amvets Memorial Highway to junction Massachusetts Highway 27, thence over Massachusetts Highway 27 to junction Massachusetts Highway 138, thence over Massachusetts Highway 138 to junction Massachusetts Highway C 28, and thence over Massachusetts Highway C 28 to Park Square, Boston, Mass., (also from Newport, R. I. as designated above to junction Amvets Memorial Highway and Massachusetts Highway 27, thence over Amvets Memorial Highway to junction Massachusetts Highway 128, thence over Massachusetts Highway 128 to junction Massachusetts Highway 138, thence over Massachusetts Highway 138 to junction Massachusetts Highway C 28, thence over Massachusetts Highway C 28 to Park Square, Boston, Mass.; and also, from Newport, R. I. as designated to junction Amvets Memorial Highway and Massachusetts Highway 128, thence over Massachusetts Highway 128 to junction Massachusetts Highway 28, thence over Massachusetts Highway 28 to junction Massachusetts Highway C 28, thence over Massachusetts Highway C 28 to Park Square, Boston, Mass.), and return over the above routes, serving all intermediate points. Applicant is authorized to conduct operations in Massa-

chusetts, Maine, New Hampshire, Rhode Island, Connecticut, New York and New Jersey.

HEARING: October 31, 1957, at the New Post Office & Court House Building, Boston, Mass., before Joint Board No. 18, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 114855 (Sub No. 1), filed July 31, 1957, ROBERT M. GOODWIN, doing business as THE ROBERT M. GOODWIN BUS SERVICE, 756 Bloomfield Ave., Bloomfield, Conn. Applicant's attorney: Hugh M. Joseloff, 410 Asylum Street, Hartford 3, Conn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, (1) beginning and ending at Avon, Farmington, Hartford, Simsbury, West Hartford, and Windsor, Conn., and extending to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York, and (2) beginning and ending at Bloomfield, Conn., and extending to points in Maine, Vermont, and Rhode Island. Applicant is authorized to conduct operations in Connecticut, Massachusetts, New Hampshire, and New York.

HEARING: October 30, 1957, at the U. S. Court Rooms, Hartford, Conn., before Examiner Lacy W. Hinely.

No. MC 116741, filed June 14, 1957, PORTLAND-YARMOUTH BUS LINE, INC., 220 Capisic St., Portland, Maine. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers*, restricted to those who are traveling from the designated origin points to designated destination points and return for the purpose of participating in beano and bingo games, in special round-trip operations beginning and ending at Portland, South Portland, and Westbrook, Maine, and extending to Portsmouth, Dover and Rochester, N. H.

HEARING: November 7, 1957, at the Federal Building, Portland, Maine, before Joint Board No. 114, or, if the Joint Board waives its right to participate before Examiner Lacy W. Hinely.

No. MC 116755 (Sub No. 3), filed August 30, 1957, D. C. TRANSIT SYSTEM, INC., 3600 M Street, N. W., Washington, D. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Passengers and their baggage*, and *newspapers, express* and *mail*, in the same vehicle, in nonscheduled bus service upon demand, under contracts with the U. S. Government or departments or agencies thereof, between points within a ten (10) mile radius of the Marine Barracks, 8th and Eye Streets, S. E., Washington, D. C. Applicant is authorized to transport passengers in the District of Columbia, Maryland and Virginia.

HEARING: September 30, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 68, or, if the Joint Board waives its right to participate, before Examiner Allen W. Hagerty.

No. MC 116755 (Sub No. 4), filed September 6, 1957, D. C. TRANSIT SYSTEM, INC., 3600 M Street, N. W., Washington, D. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Passengers* and their *baggage*, between points within territory authorized as an origin territory for charter operations in the State of Virginia, the District of Columbia, and the State of Maryland, and points in the territory now authorized to be served in charter service under section 208 (c) of the act. Applicant is authorized to conduct operations under Certificate No. MC 75289 as a common carrier of passengers as specified therein, in Maryland, Virginia and the District of Columbia.

HEARING: September 30, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Allen W. Hagerty.

No. MC 116760, filed June 20, 1957, ALICE D. WILSON, doing business as HOLDEN'S TAXI SERVICE, 50 Union St., Newton Centre 59, Mass. Applicant's attorney: Edmund F. Kneeland, 93 Union St., Newton Centre 59, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers* and *their baggage*, between Newton, Mass., on the one hand, and, on the other, Lake Placid, Niagara Falls, New York, N. Y., points in Greene County, N. Y., and those in Connecticut, New Hampshire and Maine.

HEARING: November 6, 1957, at the New Post Office & Court House Building, Boston, Mass., before Examiner Lacy W. Hinely.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 12436 (Sub No. 1), filed May 29, 1957, DOROTHY H. CATE AND JACQUELYN CATE, doing business as JACKIE'S TRAVEL AGENCY, 182 Ocean Blvd., Hampton Beach, Hampton, N. H. Applicant's attorney: Wesley Powell, The Mill, Hampton Falls, N. H. For a license (BMC 5) to engage in seasonal operations, as a *broker*, at Hampton Beach, Hampton, N. H., in arranging for the transportation in interstate or foreign commerce by motor vehicle, of *passengers and their baggage* (individual passengers and groups of passengers), between points in the United States.

HEARING: November 1, 1957, at the New Hampshire Public Service Commission, Concord, N. H., before Joint Board No. 186, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 29910 (Sub No. 47), filed August 12, 1957, ARKANSAS-BEST FREIGHT SYSTEM, INC. (formerly The Arkansas Motor Freight Lines, Inc.), 401 South 11th St., Fort Smith, Ark. Applicant's attorney: Thomas Harper, Kelley Building, Fort Smith, Ark. For authority to operate as a *common carrier*, transporting: *General commodities*, except loose bulk commodities, livestock, Class A and B explosives, currency, bullion, articles of virtu, and commodities which exceed ordinary equipment and loading facilities, between St. Louis, Mo., and Houston, Tex.: from St. Louis over U. S. Highway 67 to Texarkana, Ark.-Tex., thence over U. S Highway 59 to Marshall, Tex., thence over Texas Highway 43 to Henderson, Tex., thence over Texas Highway 26 to junction U. S. Highway 59, thence over U. S. Highway 59 to Houston, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations between St. Louis, Mo., and Houston, Tex., in its Certificate No. MC 29910 (Sub No. 46), Sheet 2.

No. MC 35484 (Sub No. 31), filed August 9, 1957, VIKING FREIGHT COMPANY, 614 South Sixth St., St. Louis 2, Mo. Applicant's attorney: B. W. LaTourette, Suite 1230 Boatmen's Bank Bldg., St. Louis 2, Mo. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Junction U. S. Highways 66 and 69 at or near Vinita, Okla., and Junction U. S. Highways 69 and 75 at or near Atoka, Okla., from the junction of U. S. Highways 66 and 69 over U. S. Highway 69 to the junction of U. S. Highways 69 and 75, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between St. Louis, Mo., and Dallas, Texas.

NOTE: Applicant states that it will serve the junction of U. S. Highways 66 and 69, and junction of U. S. Highways 69 and 75, for joinder purposes only. Applicant is authorized to conduct operations in Missouri, Illinois, Tennessee, Ohio, Indiana, Oklahoma, Texas and Kentucky.

No. MC 46829 (Sub No. 6), filed September 9, 1957, ALLARD EXPRESS, INC., 315 Hart St., Watertown Wis. Applicant's representative: Adolph E. Solie, 715 First National Bank Bldg., Madison 3, Wis. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Wild Rose, Wis., as an off-route point in connection with applicant's authorized regular route operations in Certificate No. MC 46829.

No. MC 57662 (Sub No. 4), filed September 16, 1957, BANGOR AND AROOSTOOK RAILROAD COMPANY, 84 Harlow, Bangor, Maine. Applicant's attorney: William M. Houston, same address as above. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers* and *their baggage*, in the same vehicle with passengers, between Old Town, Maine and Milo, Maine, from Old Town over Maine Highway 43 to the junction of Maine Highway 16, thence over Maine Highway 16 to Milo, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Maine.

NOTE: Applicant states that it is authorized to conduct the applied for operations pur-

suant to its proviso filing in No. MC 57662 (Sub No. 3). Applicant further states that in the event that this application is granted, applicant requests the cancellation of all proviso registrations.

No. MC 66562 (Sub No. 1382), filed September 6, 1957, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd Street, New York 17, N. Y. Applicant's attorney: William H. Marx, same address as above. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Bremerton, Wash., and Keyport Naval Torpedo Station, Wash., and Bangor Naval Ammunition Depot, Wash.: from Bremerton over Washington Highway 21 to Keyport Naval Torpedo Station, returning over Washington Highway 21 to junction with Luoto Road, thence over Luoto Road to Bangor Naval Ammunition Depot, thence over unnumbered road to junction with Washington Highway 21 at Silverdale, Wash., and thence over Washington Highway 21 to Bremerton, return trip over same route, serving no intermediate points. Applicant states the proposed service is an extension of and will be tacked or joined at Bremerton, Wash. with its authorized regular route operation between Seattle and Bremerton in Docket No. MC 66562 (Sub No. 737). RESTRICTIONS: The service to be performed by said carrier shall be limited to service which is auxiliary to or supplemental of express service. Shipments transported by said carrier shall be limited to those moving on a through bill of lading, or express receipt, covering in addition to a movement by said carrier, an immediately prior or immediately subsequent movement by rail or air. Such further specified conditions as the Commission, in the future, may find it necessary to impose in order to restrict said carrier's operations to service which is auxiliary to, or supplemental of, express service. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states interchange with rail and air express service will be made at Seattle, Wash.

No. MC 66562 (Sub No. 1383), filed September 9, 1957, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd Street, New York 17, N. Y. Applicant's attorney: William H. Marx, same address as above. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, (1) between Morgantown, W. Va., and Grafton, W. Va., from Morgantown over U. S. Highway 119 to Grafton and return over the same route, serving no intermediate points, and (2) between Morgantown, Va., and Fairmont, W. Va., from Morgantown over W. Virginia Highway 73 to Fairmont, and return over the same route, serving no intermediate points, as alternate routes for operating convenience only in connection with applicant's authorized regular route operations between Connellsville, Pa., and Clarksburg and Grafton, W. Va. in Certificates MC 66562 (Sub Nos. 12 and 604). RESTRICTIONS: The service to be performed by said carrier shall be limited to service which is auxiliary to or supplemental of railway express service. Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict said carrier's operation to service which is auxiliary to or supplemental of rail express service. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states interchange with rail express service will be made at Grafton, W. Va.

No. MC 113843 (Sub No. 16), filed September 6, 1957, REFRIGERATED FOOD EXPRESS, INC., 8 Commonwealth Pier, Boston 10, Mass. Applicant's attorney: James M. Walsh, 816 Parker House Office Bldg., 44 School Street, Boston, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Canned goods*, from Baltimore, Crisfield, Kingston, Marion Station and Havre de Grace, Md., and points in those parts of Delaware, Maryland and Virginia on and south of U. S. Highway 40 and east of the Susquehanna River and Chesapeake Bay to points in Connecticut, Massachusetts and to Providence, R. I. Applicant is authorized to conduct operations in Ohio, Massachusetts, New York, Maryland, Virginia, West Virginia, Illinois, Wisconsin, Connecticut, Indiana, Michigan, New Jersey, Pennsylvania, Rhode Island, Texas, Kentucky, Maine, North Carolina, South Carolina, Tennessee, New Hampshire, Iowa, Nebraska and the District of Columbia.

NOTE: Applicant states that it is presently authorized to transport subject commodities from original points to destination points by tacking, and it seeks only a more direct route by this application.

MOTOR CARRIERS OF PASSENGERS

No. MC 1504 (Sub No. 141), filed September 4, 1957, ATLANTIC GREYHOUND CORPORATION, 1100 Kanawha Valley Building, Charleston, W. Va. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Avenue, NW., Washington 6, D. C. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, mail*, and *newspapers*, in the same vehicle with passengers, between junction West Virginia Highway 56 and U. S. Highway 21 and Parkersburg, W. Va., from junction West Virginia Highway 56 and U. S. Highway 21 over West Virginia Highway 56 to junction West Virginia Highway 2 at Ravenswood, W. Va., thence over West Virginia Highway 2 to Parkersburg, and return over the same route, serving all intermediate points. Applicant is authorized to conduct similar operations in Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

No. MC 2890 (Sub No. 32), filed June 24, 1957, AMERICAN BUSLINES, INC., Richard W. Smith, Trustee, and W. F. Aikman, Additional Trustee, 1341 "P" St., Lincoln 8, Nebr. Applicant's attorneys: Curry and Dolan, Southern Building, Washington, D. C. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, mail* and *newspapers* in the same vehicle with passengers, between Shenandoah, Iowa, and Red Oak, Iowa, over Iowa Highway 48, serving all intermediate points. Applicant is authorized to conduct similar operations in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wyoming, and the District of Columbia.

No. MC 2890 (Sub No. 33), filed August 29, 1957, AMERICAN BUSLINES, INC. (RICHARD W. SMITH, TRUSTEE, AND W. F. AIKMAN, ADDITIONAL TRUSTEE), 1341 "P" Street, Lincoln, Nebr. Applicant's attorneys: Curry and Dolan, Southern Bldg., Washington, D. C. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage*, and *express*, and *newspapers*, in the same vehicle with passengers, (1) between Cedar Rapids, Iowa and Iowa City, Iowa, over relocated U. S. Highway 218, serving all intermediate points; and (2) between North Liberty, Iowa and junction relocated U. S. Highway 218 and unnumbered highway, over unnumbered highway, serving all intermediate points. Applicant is authorized to conduct operations in Alabama, Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wyoming, and the District of Columbia.

NOTE: Applicant states it proposes, at the same time that operations are begun over the above routes, to discontinue and abandon service over the old highway between Cedar Rapids and Iowa City, Iowa.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 2756 (Sub No. 13), filed September 16, 1957, JOHN VOGEL, INC., 60 Broadway, Albany 7, N. Y. Applicant's attorney: Arthur M. Marshall, 145 State St., Springfield 3, Mass. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities, including those of unusual value and commodities requiring special equipment*, but excepting Class A and B explosives, household goods as defined by the Commission, and commodities in bulk, between points in New York as follows: (1) between Buffalo, N. Y. and Albany, N. Y., (a) over New York Highway 5 serving all intermediate points and the off-route points of Oneida, Rome, Akron, Oakfield, Elba, Scottsville, Holcomb, Shortsville, Clifton Springs, Marcellus, Canastota, Seneca Castle, Verona, Marcy, and Brewerton; (b) from Buffalo over New York Highway 130 to junction U. S. Highway 20, thence over

U. S. Highway 20 to Albany, and return over the same routes, serving all intermediate points and the off-route points of Attica, Alexander, Wyoming, Warsaw, Cayuga, Hamilton and Cowlesville; (2) between Buffalo, N. Y. and Middletown, N. Y., from Buffalo over New York Highway 62 to junction U. S. Highway 20, thence over U. S. Highway 20 to Westfield, and thence over New York Highway 17 to Middletown, and return over the same routes, serving all intermediate points and the off-route points of Dunkirk, Forestville, Cuba, Alfred, Candor, Newark Valley, Walton, Sherman, Sinclairville, Iroquois, Cassadaga, Frewsburg, Hinsdale, and Clymer; (3) between Buffalo and Jamestown, N. Y. over U. S. Highway 62, serving the intermediate point of North Collins and the off-route points of Cattaraugus and Water Valley; (4) between Buffalo and Salamanca, N. Y., from Buffalo over New York Highway 16 to Franklinville, thence over New York Highway 98 to Salamanca, and return over the same routes, serving all intermediate points and the off-route point of Java; (5) between Buffalo and Wellsville, N. Y., from Buffalo over New York Highway 16 to junction New York Highway 39, thence over New York Highway 39 to Arcade, thence over New York Highway 98 to junction New York Highway 243, thence over New York Highway 243 to Caneadea, and thence over New York Highway 19 to Wellsville, and return over the same routes, serving all intermediate points and the off-route points of Hume and Short Tract; (6) between Buffalo and Jasper, N. Y., from Buffalo to Caledonia over the route specified under (1), thence over New York Highway 36 to Hornell, thence over New York Highway 21 to Jasper, and return over the same routes, serving all intermediate points and the off-route points of Geneseo and Groveland; (7) between Buffalo and Painted Post, N. Y., from Buffalo to Lima over the route specified under (1), thence over New York Highway 15A to Spring Water, and thence over U. S. Highway 15 to Painted Post, and return over the same routes, serving all intermediate points and the off-route points of Naples and Honeoye; (8) between Buffalo and Bath, N. Y., from Buffalo to Geneseo over the route specified under (1), thence over New York Highway 14A to Penn Yan, thence over New York Highway 54A to Hammondsport, and thence over New York 54 to Bath, and return over the same routes, serving all intermediate points and the off-route points of Potter, Branchport, and Keuka Park; (9) between Buffalo and Ithaca, (a) from Buffalo to Waterloo, N. Y., over the route specified in (1), thence over New York Highway 96 to Ithaca; (b) from Buffalo to Syracuse as specified in route (1), thence over U. S. Highway 11 to Cortland, thence over New York Highway 13 to Ithaca, and return over the same routes, serving the intermediate points of Cortland and Dryden and the off-route points of Groton and Caywood; (10) between Buffalo and Binghamton, N. Y., from Buffalo to Utica over the route specified in (1), and thence over New York Highway 12 to Binghamton, and return over the same routes, serving the intermediate point of Norwich and the off-route point of New Berlin; (also from Buffalo to Herkimer over the route specified in (1), thence over New York Highway 28 to Colliersville, and thence over New York Highway 7 to Binghamton, serving the intermediate points of Milford, Oneonta, and Unadilla and the off-route point of Sidney); (11) between Buffalo and Rochester over New York Highway 33, serving all intermediate points and the off-route point of Cold Water; (12) between Buffalo and Niagara Falls, over New York Highways 384 and 266 and return over the same routes, serving all intermediate points; (13) between Buffalo and Plattsburg, from Buffalo over New York Highway 263 to Lockport, thence over New York Highway 31 to Rochester, thence over U. S. Highway 104 to Mapleview, thence over U. S. Highway 11 to Chateaugay, thence over New York Highway 374 to junction New York Highway 3, and thence over New York Highway 3 to Plattsburg, and return over the same routes, serving all intermediate points and the off-route points of Fulton, Hilton, Sackets Harbor, Keeseville, Ransomville, Hamlin, Clarkson, Greece, Mortimer, North Rose, Woodville, Lorraine, Rodman, Norfolk, Ellenburg, and Peru; (14) between Buffalo and Malone, from Buffalo over the routes specified in (13) to Watertown, and thence over New York Highway 37 to Malone, and return over the same routes, serving the intermediate points of Hammond, Ogdensburg, and Massena and the off-route point of Alexandria Bay; (15) between Buffalo and Saranac Lake, from Buffalo to Watertown over the route specified in (13), and thence over New York Highway 3 to Saranac Lake, and return over the same routes, serving the intermediate points of Black River, Great Bend, Carthage, and Tupper Lake; (16) between Rochester and Syracuse, from Rochester over New York Highway 31 to Weedsport, thence over New York Highway 31B to junction New York Highway 5, and thence over New York Highway 5 to Syracuse, and return over the same routes, serving all intermediate points; (17) between Buffalo and Watertown, from Buffalo to Utica over the route specified in (1), and thence over New York Highway 12 to Watertown, and return over the same routes, serving the intermediate points of Boonville and Lowville; (18) between Watertown and Cape Vincent over New York Highway 12E serving the intermediate point of Dexter; (19) between Watertown and Clayton over New York Highway 12, Utica and Schenectady over New York Highway 5S, Mayville and Jamestown over New York Highway 17J, Big Flats and Elmira over New York Highway 17E, Owego and Binghamton over New York Highway 17C, and Geneva and Ovid over New York Highway 96A, and return over the same routes, as alternate routes for operating convenience only, serving no intermediate points.

NOTE: This application is filed to obtain a Certificate of Public Convenience and Necessity authorizing continuance of interstate operations conducted under the second proviso of section 206 (a) (1) of the Interstate Commerce Act, supported by intrastate certificate issued to Mayberry Motor Freight, Inc., on file with this Commission. This application is directly related to section 5 application in No. MC-F-6696.

MOTOR CARRIERS OF PASSENGERS

No. MC 29890 (Sub No. 21), filed September 17, 1957, ROCKLAND COACHES, INC., 126 N. Washington Ave., Bergenfield, N. J. Applicant's attorney: S. S. Eisen, 140 Cedar St., New York 6, N. Y. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers* and *their baggage*, in the same vehicle with passengers, between Closter, N. J. and Harrington Park, N. J., from junction Schraalenburgh Road with Old Hook Road in Closter over Schraalenburg Road to Elm Street in Harrington Park, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in New Jersey and New York.

NOTE: This matter is directly related to MC-F-6697 and MC-F-6698.

No. MC 35124 (Sub No. 10), filed September 17, 1957, HILL BUS COMPANY, 126 North Washington Ave., Bergenfield, N. J. Applicant's attorney: S. S. Eisen, 140 Cedar St., New York 6, N. Y. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers* and *their baggage*, in the same vehicle with passengers, (1) between junction of Portland Avenue with Main Street in Bergenfield, N. J. and Washington Ave., from junction Portland Avenue with Main Street, over Portland Avenue and Clinton Avenue to Washington Avenue, and return over the same route, serving all intermediate points; (2) between junction of Queen Anne Road and State Street and junction of New Jersey Highway 4 and Teaneck Road, from junction of Queen Anne Road and State Street over Queen Anne Road to junction of New Jersey Highway 4, thence over New Jersey Highway 4 to junction of Teaneck Road, and return over the same route, serving all intermediate points; (3) between junction Schraalenburgh Road with Elm Street in Harrington Park, N. J., over Schraalenburgh Road, LaRoche Avenue and Railroad Station Plaza to Elm Street, and return over the same route, serving all intermediate points; (4) between Closter, N. J. and Harrington Park, N. J. from junction Schraalenburgh Road with Old Hook Road in Closter, over Schraalenburgh Road to Elm Street in Harrington Park, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in New Jersey and New York.

NOTE: This matter is directly related to MC-F-6697 and MC-F-6698.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under section 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR 1.240)

MOTOR CARRIERS OF PROPERTY

No. MC–F 6590, published in the May 29, 1957, issue of the FEDERAL REGISTER on page 3777. Supplemental application filed September 13, 1957, to show joinder of WILLIAM BUCHANAN and LAURA BUCHANAN, both of Corydon, Ind., as the persons in control of vendee.

No. MC–F 6677, published in the September 5, 1957, issue of the FEDERAL REGISTER on page 7125. Application filed September 12, 1957, for temporary authority under section 210a (b).

No. MC–F 6694. Authority sought for control and merger by STEFFKE FREIGHT CO., 204 South Bellis Street, Wausau, Wis., of the operating rights and property of GORDY FREIGHT LINES, INC., 1621 South Canal Street, Chicago, Ill., and for acquisition by MALCOLM J. BOYLE, JR., also of Wausau, and STEADFAST OPERATING COMPANY, c/o D. M. Healey, 231 South LaSalle Street, Chicago, Ill., of control of such rights and property through the transaction. Applicants' attorney: Axelrod, Goodman & Steiner, 39 South LaSalle Street, Chicago, Ill. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes between Muscatine, Iowa, and Chicago, Ill., from Chicago, Ill., to Muscatine, Iowa, between Rockford, Ill., and Chicago, Ill., between Byron, Ill., and Chicago, Ill., and between Rockford, Ill., and Sterling, Ill., serving certain intermediate and off-route points; *general commodities*, with certain exceptions including household goods and commodities in bulk, over irregular routes, between Byron, Ill., on the one hand, and, on the other, points in Ogle and Carroll Counties, Ill.; *household goods*, as defined by the Commission, between certain points in Iowa, on the one hand, and, on the other, points in Illinois; *livestock*, between points in Muscatine County, Iowa, on the one hand, and, on the other, points in Illinois within 60 miles of Muscatine, Iowa; *coal*, from points in LaSalle, Henry, Bureau, and Rock Island Counties, Ill., to points in Muscatine County, Iowa. STEFFKE FREIGHT CO. is authorized to operate as a *common carrier* in Illinois, Wisconsin, Michigan, and Iowa. Application has been filed for temporary authority under section 210a (b).

No. MC–F 6695. Authority sought for control and merger by FRED OLSON MOTOR SERVICE COMPANY, 4724 West Walton Street, Chicago 51, Ill., of the operating rights and property of WEBBER CARTAGE LINE, INC., Route 120 and Route 42–A, Post Office Box 59, Waukegan, Ill., and for acquisition by FRED A. OLSON, 9380 North Lake Drive, Milwaukee, Wis., and OLSON MOTOR SERVICE, INC., 1300 West Bruce Street, Milwaukee, Wis., of control of such rights and property through the transaction. Applicants' attorney: Franklin R. Overmyer, 111 West Monroe Street, Chicago 3, Ill. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Chicago, Ill., and Milwaukee, Wis., serving all intermediate and certain off-route points; alternate route for operating convenience only between Chicago, Ill., and the junction of Eden's Expressway and U. S. Highway 41 somewhat north of Lake Avenue; *iron articles and steel articles* which because of size or weight require transportation by pole trailers, between Chicago, Ill., and Milwaukee, Wis., serving certain intermediate and off-route points; alternate route for operating convenience only between Chicago, Ill., and junction Eden's Expressway and U. S. Highway 41; *general commodities*, with certain exceptions including household goods and commodities in bulk, over irregular routes, between Chicago, Ill., on the one hand, and, on the other, Indiana points included in the CHICAGO, ILL., COMMERCIAL ZONE, as defined by the Commission; *fertilizer*, in truckload lots, from Milwaukee, Wis., to points in DuPage County, Ill. FRED OLSON MOTOR SERVICE COMPANY is authorized to operate as a *common carrier* in Illinois, Wisconsin and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6696. Authority sought for control and merger by JOHN VOGEL, INC., 60 Broadway, Albany, N. Y., of the operating rights and property of MAYBERRY MOTOR FREIGHT, INC., Church Street, Port of Albany, Albany, N. Y., and BROWN'S EXPRESS, INC., 1595 East Street, Pittsfield, Mass., and for acquisition by JOHN VOGEL, JR., JAMES VOGEL and WILLIAM VOGEL, all of Albany, of control of such rights and property through the transaction. Applicants' attorney: Arthur M. Marshall, 145 State Street, Springfield, Mass. Operating rights sought to be controlled and merged: (MAYBERRY MOTOR FREIGHT, INC.) Operations under the Second Proviso of Section 206 (a) (1) of the Interstate Commerce Act in the transportation of *general commodities*, as a *common carrier* in the State of New York, over regular routes, from Buffalo to Albany, Middletown, Jamestown, Salamanca, Wellsville, Jasper, Painted Post, Bath, Ithaca, Binghamton, Rochester, Niagara Falls, Plattsburg, Malone, Saranac Lake and Watertown, and from Rochester to Syracuse, serving certain intermediate and off-route points; authority to use connecting routes from Watertown to Cape Vincent, serving the intermediate point of Dexter, from Watertown to Clayton, from Utica to Schenectady, from Mayville to Jamestown, from Big Flats to Elmira, from Owego to Binghamton, and from Geneva to Ovid; (BROWN'S EXPRESS, INC.) *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Springfield, Mass., and Albany, N. Y., between Pittsfield, Mass., and Williamstown and Sheffield, Mass., between Springfield, Mass., and Athol, Mass., between Albany, N. Y., and Glens Falls, N. Y., and between Northampton, Mass., and Boston, Mass., serving certain intermediate and off-route points; alternate routes for operating convenience only between Springfield, Mass., and Worcester, Mass., and between Worcester, Mass. and Junction U. S. Highway 20 and Massachusetts Highway 9; *new furniture*, over irregular routes, from Arlington, Vt., to points in Berkshire, Hampden, Hampshire, and Franklin Counties, Mass.; *fertilizer*, from South Deerfield, Mass.; to Warren, R. I., points in Vermont, certain points in New York and certain points in Connecticut, and from Bridgeport, New Haven, Hartford, Portland, and East Windsor, Conn., to South Deerfield, Mass.; *bone, hoof, horn and vegetable meal*, and *tankage*, from New York, N. Y., and points within ten miles thereof, to Leominster and South Deerfield, Mass., and points in Hartford County, Conn.; *lime* and *limestone products*, from New Haven Junction and Winooski, Vt., and Canaan, Conn., to points in Hampden, Hampshire, and Franklin Counties, Mass.; *agricultural commodities*, from points in Hampshire, and Franklin Counties, Mass., to Providence, R. I., Philadelphia, Pa., points in Connecticut, points in New Jersey within 25 miles of New York, N. Y., and certain points in New York, and from Boston, Mass., to Springfield, Mass., Providence, R. I., New York, N. Y., and points in New York within ten miles of New York, N. Y, and points in Connecticut; *burlap bags*, from Philadelphia, Pa., Jersey City, N. J., and New York, N. Y., to South Deerfield, Mass. JOHN VOGEL, INC., is authorized to operate as a *common carrier* in New York, New Jersey, Pennsylvania, Massachuestts and Connecticut. Application has been filed for temporary authority under section 210a (b).

NOTE: No. MC 2756 Sub 13, filed September 16, 1957, is a matter directly related.

MOTOR CARRIERS OF PASSENGERS

No. MC–F 6697. Authority sought for purchase by PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, N. J., of portions of the operating rights of HILL BUS COMPANY, ROCKLAND COACHES, INC., and ROCKLAND TRANSIT CORPORATION, all of 126 North Washington Avenue, Bergenfield, N. J., and for acquisition by PUBLIC SERVICE ELECTRIC AND GAS COMPANY, 80 Park Place, Newark 1, N. J., of control of such rights through the purchase. Applicants' attorney: Frederick M. Broadfoot, 180 Boyden Avenue, Maplewood, N. J. Operating rights proposed to be transferred: (HILL BUS COMPANY) *Passengers and their baggage*, and *express*, in the same vehicle with passengers, as a *common carrier* over regular routes, (1) from junction Schraalenburgh Road

with Elm Street in Harrington Park, N. J., over Schraalenburgh Road through Closter and Haworth, thence over Washington Avenue through Dumont and Bergenfield, thence over Teaneck Road to New Jersey Highway #4 in Teaneck, N. J., and return over the same route; (2) in Dumont, N. J., over Madison Avenue from the New York Central Railroad to Washington Avenue and return over the same route; (3) in Bergenfield, N. J., over Church Street from Station Square to Washington Avenue, and return over the same route; (4) in Teaneck, N. J., over State Street from Queen Anne Road to Teaneck Road, and return over the same route; and (5) from junction Palisade Avenue with Grand Avenue in Englewood, N. J., over Palisade Avenue to Hudson Terrace in Englewood Cliffs, thence over Hudson Terrace and Myrtle Avenue to Lemoine Avenue in Fort Lee, N. J., and return over the same route; service is authorized to and from all intermediate points; (ROCKLAND COACHES, INC.) *Passengers and their baggage,* in the same vehicle with passengers, as a *common carrier* over a regular route from junction Schraalenburgh Road with Elm Street in Harrington Park, N. J., over Schraalenburgh Road to Old Hook Road in Closter, N. J., and return over the same route; service is authorized to and from all intermediate points; (ROCKLAND TRANSIT CORPORATION) *Passengers and their baggage,* and *express, newspapers* and *mail,* in the same vehicle with passengers, as a *common carrier,* over regular routes, (1) from junction Schraalenburgh Road with Elm Street in Harrington Park, N. J., over Schraalenburgh Road through Closter and Haworth, thence over Washington Avenue through Dumont and Bergenfield, thence over Teaneck Road to New Jersey Highway #4 in Teaneck, N. J., and return over the same route; and (2) in Dumont, N. J., over Madison Avenue from the New York Central Railroad to Washington Avenue and return over the same route; service is authorized to and from all intermediate points. Vendee is authorized to operate as a *common carrier* in New Jersey, New York and Pennsylvania. Application has not been filed for temporary authority under section 210a (b).

NOTE: Nos. MC 29830 Sub 21 and MC 35124 Sub 10 are matters directly related, published in this issue.

No. MC–F 6698. Authority sought for purchase by HILL BUS COMPANY and ROCKLAND COACHES, INC., both of 126 North Washington Avenue, Bergenfield, N. J., of portions of the operating rights of PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, N. J., and for acquisition by ERNEST CAPITANI, ERNEST A. CAPITANI, JR., MARY CAPITANI, and AMELIA CAPITANI GERACE, all of Bergenfield, of control of such rights through the transactions. Applicants' attorney: S. S. Eisen, 140 Cedar Street, New York 6, N. Y. Operating rights sought to be transferred: *Passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, as a *common carrier* over regular routes (to HILL BUS COMPANY), (1) from junction Clinton Avenue with Washington Avenue in Bergenfield, N. J., over Clinton Avenue to Knickerbocker Road in Tenafly, N. J., thence over Knickerbocker Road to Palisade Avenue in Englewood, N. J., and return over the same route; (2) from junction Sharer Street with Paris Avenue in Northvale, N. J., over Sharer Street, Glanz Avenue and Livingston Street to Paris Avenue, thence over Paris Avenue and Tappan Road to Norwood, thence over Tappan Road and Schraalenburgh Road to LaRoche Avenue in Harrington Park, N. J., and return over the same route to junction Paris Avenue with Sharer Street; (3) from junction Closter Road with Schraalenburgh Road in Harrington Park, N. J., over Closter Road, Harrington Avenue and Closter Dock Road to Piermont Road in Closter, thence over Piermont Road and County Road, through Demarest, to Union Avenue in Cresskill, thence over Union Avenue, Railroad Plaza, Madison Avenue and Jefferson Avenue to Riveredge Road in Tenafly, N. J., and return over the same route; (4) in Closter, N. J., from junction Closter Dock Road with Bogert Street, over Bogert Street, Demarest Avenue and Durie Avenue to Closter Dock Road, and return over the same route; (5) from junction Riveredge Road with Tenafly Road in Tenafly, N. J., over Tenafly Road to Palisade Avenue in Englewood, N. J., and return over the same route; and (6) from junction County Road with Union Avenue in Cresskill, N. J., over County Road and Highwood Avenue to Riveredge Road in Tenafly, N. J., and return over the same route; service is authorized to and from all intermediate points (to ROCKLAND COACHES, INC.), (1) from junction Broadway with Tappan Road in Norwood, N. J., over Broadway and Piermont Road to Closter Dock Road in Closter, N. J., and return over the same route; (2) from junction Piermont Road with Closter Dock Road in Closter, N. J., over Closter Dock Road to U. S. Highway #9–W, in Alpine, thence over U. S. Highway #9–W, through Tenafly, to Palisade Avenue in Englewood Cliffs, N. J., and return over the same route; (3) from junction Union Avenue-Hillside Avenue with County Road in Cresskill, N. J., over Hillside Avenue and Church Street to Closter Dock Road in Alpine, N. J., and return over the same route; and (4) in Englewood, N. J., over Engle Street from Demarest Avenue to Palisade Avenue, and return over the same route; service is authorized to and from all intermediate points. Both vendees are authorized to operate as *common carriers* in New Jersey and New York. Application has not been filed for temporary authority under Section 210a (b).

NOTE: Nos. MC 29890 Sub 21 and MC 35124 Sub 10 are matters directly related, published in this issue.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57–7840; Filed, Sept. 24, 1957; 8:48 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 20, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34173: *Substituted service—motor and rail—Chicago and North Western Railway.* Filed by the Middlewest Motor Freight Bureau, Agent (90), for the Chicago and Northwestern Railway Company and interested motor carriers. Rates on freight loaded in highway trailers and transported in substituted service on railroad flat cars, between Chicago, Ill., on the one hand, and St. Paul, Minn., Altoona and Eau Claire, Wis., on the other.

Grounds for relief: Motor Truck Competition.

Tariff: Supplement 61 to Middlewest Motor Freight Bureau MF–ICC 223.

FSA No. 34174: *Commercial explosives—Missouri points to Southwestern points.* Filed by F. C. Kratzmeir, Agent (SWFB B–7116), for interested rail carriers. Rates on commercial explosives, including dynamite primers, boosters, blasting caps, fuses, blasting materials, and supplies, also nitro-carbonitrate, straight or mixed carloads, from Atlas, Carl Jct., and Independent Powder Company No. 2, Mo., to points in southwestern territory as described in the application.

Grounds for relief: Short-line distance scale formula and motor-truck competition.

Tariff: Supplement 4 to Agent Kratzmeir's ICC 4257.

FSA No. 34175: T. O. F. C. Service—NYNH&H Railroad Company (36), for itself and other interested rail carriers. Rates on freight loaded in or on trailers and transported on railroad flat cars, in trailer-on-flat-car service, between points in Connecticut, Massachusetts, and Rhode Island, on the one hand, and points in Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, and Pennsylvania, on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 9 to The New York, New Haven and Hartford Railroad Company's ICC F 4431.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57–7838; Filed, Sept. 24, 1957; 8:47 a. m.]

TITLE 3—THE PRESIDENT

PROCLAMATION 3204

OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain persons in the State of Arkansas, individually and in unlawful assemblages, combinations, and conspiracies, have wilfully obstructed the enforcement of orders of the United States District Court for the Eastern District of Arkansas with respect to matters relating to enrollment and attendance at public schools, particularly at Central High School, located in Little Rock School District, Little Rock, Arkansas; and

WHEREAS such wilful obstruction of justice hinders the execution of the laws of that State and of the United States, and makes it impracticable to enforce such laws by the ordinary course of judicial proceedings; and

WHEREAS such obstruction of justice constitutes a denial of the equal protection of the laws secured by the Constitution of the United States and impedes the course of justice under those laws:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith.

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 Newport, Rhode Island this twenty-third day of September in the year of our Lord
[SEAL] Nineteen hundred and fifty-seven and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-7976; Filed, Sept. 24, 1957; 8:06 p. m.]

EXECUTIVE ORDER 10730

PROVIDING ASSISTANCE FOR THE REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS

WHEREAS on September 23, 1957, I issued Proclamation No. 3204 reading in part as follows:

"WHEREAS certain persons in the State of Arkansas, individually and in unlawful assemblages, combinations, and conspiracies, have wilfully obstructed the enforcement of orders of the United States District Court for the Eastern District of Arkansas with respect to matters relating to enrollment and attendance at public schools, particularly at Central High School, located in Little Rock School District, Little Rock, Arkansas; and

"WHEREAS such wilful obstruction of justice hinders the execution of the laws of that State and of the United States, and makes it impracticable to enforce such laws by the ordinary course of judicial proceedings; and

"WHEREAS such obstruction of justice constitutes a denial of the equal protection of the laws secured by the Constitution of the United States and impedes the course of justice under those laws:

"NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States, under and by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith;" and

WHEREAS the command contained in that Proclamation has not been obeyed and wilful obstruction of enforcement of said court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10, particularly sections 332, 333 and 334 thereof, and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. I hereby authorize and direct the Secretary of Defense to order into the active military service of the United States as he may deem appropriate to carry out the purposes of this Order, any or all of the units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders.

SEC. 2. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstruction of justice in the State of Arkansas with respect to matters relating to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas. In carrying out the provisions of this section, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to Section 1 of this Order.

SEC. 3. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Eastern District of Arkansas, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this Order.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
September 24, 1957.

[F. R. Doc. 57-7977; Filed, Sept. 24, 1957; 8:07 p. m.]