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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 25—FEDERAL EMPLOYEES PAY REGULATIONS

PART 30—ANNUAL AND SICK LEAVE REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Effective October 23, 1958, paragraphs (d) (6) and (e) (1) of § 25.11 are amended as set out below.

§ 25.11 *Definitions.* * * *

(d) * * *

(6) The period between (i) an individual's separation from active military duty (or hospitalization continuing thereafter as provided by law) and the date of restoration in accordance with his right of restoration; and (ii) the date of termination of employment of an employee and his reemployment under the mandatory provisions of any law, regulation, or Executive order.

(e) * * *

(1) Any increase in compensation granted by law after June 30, 1951;

2. Section 25.51, and paragraphs (b), (c), and (d) of § 25.52 are amended as set out below.

§ 25.51 *Scope.* Sections 25.51 to 25.54 apply to all officers and employees in or under the departments as defined in section 201 (a) of the Classification Act of 1949, as amended, subject to the exemptions specified in sections 202, 204, and 705 of that Act, in positions not above grade 15 of the General Schedule, who meet all of the conditions of eligibility for longevity step increases.

§ 25.52 *Definitions.* * * *

(b) "Longevity step increase" is a step increase above the maximum scheduled rate of the grade equal to a full step of the grade (except that the longevity step rate for grade GS–15 is the same as for grade GS–14), or an increase in an amount required to complete a full longevity step where the employee's existing rate of basic compensation is not a standard maximum or longevity rate for the grade in which the employee's position is placed.

(c) "Aggregate period" is a total of ten years in the present position, or in the present grade and equivalent or higher grades, of civilian service, including intervening military service which has interrupted civilian service, and excluding all periods of separation from the service and any unpaid absence in excess of 26 workweeks in any calendar year. For the purpose of this definition, an equivalent or higher grade under the Classification Act of 1949, as amended, shall be determined by the following table:

CPC–1, CPC–2, CPC–3	equivalent to GS–1	equivalent to SP–1, SP–2, CAF–1
CPC–4	equivalent to GS–2	equivalent to CAF–2, SP–3
CPC–5	equivalent to GS–3	equivalent to CAF–3, SP–4
CPC–6	equivalent to GS–4	equivalent to CAF–4, SP–5
CPC–7	equivalent to GS–5	equivalent to CAF–5, SP–6, P–1
CPC–8	equivalent to GS–6	equivalent to CAF–6, SP–7
CPC–9	equivalent to GS–7	equivalent to CAF–7, SP–8, P–2
CPC–10	equivalent to GS–8	equivalent to CAF–8
	GS–9	equivalent to CAF–9, P–3
	GS–10	equivalent to CAF–10
	GS–11	equivalent to CAF–11, P–4
	GS–12	equivalent to CAF–12, P–5
	GS–13	equivalent to CAF–13, P–6
	GS–14	equivalent to CAF–14, P–7
	GS–15	equivalent to CAF–15, P–8

Civilian service paid under authority other than the Classification Act of 1923, as amended, or the Classification Act of 1949, as amended, shall be deemed to be equivalent to the highest grade in the foregoing table in which the basic rate for such service would have been included at the time of such service.

(d) "Longevity period" is three years, of the aggregate period, of continuous service in a Classification Act position: (1) At the maximum scheduled rate of the employee's grade; or (2) at a longevity rate of the employee's grade; or (3) at a rate in excess of such maximum scheduled rate in accordance with a provision of law; or (4) at any of the rates specified in subparagraphs (1), (2), or (3) of this paragraph, in a grade higher

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FEDERAL REGISTER

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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.

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than his current grade. Intervening military service interrupting continuous service at one of the above rates is creditable for longevity step increases. A change of grade or rate of basic compensation prescribed by any law of general application does not begin a new longevity period. Any period of creditable service in excess of one or two complete longevity periods (except as otherwise provided in § 25.54 (c)), shall be credited toward the completion of the employee's next longevity step period. A new longevity period begins after a break in service in excess of four workweeks. The longevity period shall be extended for a sufficient amount of paid service to make up unpaid absences in excess of a total of six workweeks during such period.

3. Effective January 1, 1958, paragraphs (a) and (j) of § 25.102 are amended as set out below.

§ 25.102 *Definitions.* * * *

(a) "New appointment" is the first appointment, regardless of the tenure of appointment, as a Federal civilian officer or employee.

* * * * *

(j) "Highest previous rate" is the highest basic salary rate previously paid to a Federal civilian employee occupying a position in any branch of the Federal Government (executive, legislative, or judicial), or in the municipal government of the District of Columbia, or in a mixed ownership corporation, irrespective of whether or not such position is subject to the pay schedules of the Classification Act The highest previous rate must be based on a regular tour of duty at such rate (1) under an appointment not limited to 90 days or less, or (2) for a continuous period of 90 days under one or more appointments without a break in service. If such highest previous rate was earned in a Classification Act position, it shall be increased by any subsequent amendments to the Classification Act pay schedules. If such highest previous rate was earned in a position not subject to the Classification Act it shall be increased only by those amendments to the Classification Act or other applicable statutory amendments which were enacted during a period when the employee was not in civilian service as described above.

(Sec. 1101, 63 Stat. 971; 5 U. S. C. 1072)

4. Effective on the first day of the first pay period which began on or after June 20, 1958, paragraph (b) of § 25.204 and paragraph (d) (3) of § 25.223 are amended as follows:

§ 25.204 *General pay computation method.* * * *

(b) Whenever, for the purposes of computing overtime, holiday, or night pay or additional pay on an annual basis under this subpart, it is necessary to convert a basic annual rate to a basic biweekly, weekly, daily, or hourly basic rate, the following rules shall govern:

(1) An hourly rate shall be derived by dividing the annual rate by two thousand and eighty;

(2) A daily rate shall be derived by multiplying the hourly rate by the number of daily hours of service required; and

(3) A weekly or biweekly rate shall be derived by multiplying the hourly rate by forty or eighty as the case may be.

(4) All rates shall be computed in full cents, counting a fraction of a cent as the next higher cent.

§ 25.223 *Computation of overtime compensation.* * * *

(d) * * *

(3) All rates shall be computed in full cents, counting a fraction of a cent as the next higher cent.

5. Effective on the first day of the first pay period which began on or after January 1, 1958, paragraph (h) of § 25.274 is amended as set out below.

§ 25.274 *Construction and computation of existing aggregate rates.* * * *

(h) An employee entitled to an existing aggregate rate shall have his "saved rate" increased by any pay increase authorized by law in an amount equal to the difference between the former top longevity rate and the current top longevity rate for his grade.

(Sec. 605, 59 Stat. 304; 5 U. S. C. 945)

6. Effective October 23, 1958, § 30.704 is amended as set out below.

§ 30.704 *Reestablishment of leave account as a credit or charge.* Any employee who leaves his civilian position to enter the military service shall have his existing leave account certified for credit or charge and such leave account shall be reestablished as a credit or charge when:

(a) He is restored in accordance with his right of restoration to his civilian position after separation from active military duty or hospitalization continuing thereafter as provided by law; or in accordance with the mandatory provisions of any statute, regulation, or Executive order; or

(b) He is reemployed in a position under the Act not later than 52 continuous calendar weeks after separation from active military duty.

(Sec. 206, 65 Stat. 681; 5 U. S. C. 2065)

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

[F. R. Doc., 58-7740; Filed, Sept. 22, 1958; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter D—Soil and Water Conservation Loans

[FHA Instruction 442.1]

PART 351—POLICIES AND AUTHORITIES

SECURITY REQUIREMENTS FOR LOANS TO ASSOCIATIONS

Section 351.3 (f) (3) of Title 6, Code of Federal Regulations (20 F. R. 1966), is hereby amended to make it the responsibility of the applicant to obtain releases, consents, and subordinations to easements and rights-of-way across private lands as it deems necessary for the construction, operation, and maintenance of the facility, and to read as follows:

§ 351.3 *Loans to associations.* * * *

(f) *Security requirements.* * * *

(3) A lien will be taken on the interest of the applicant in all easements, rights-of-way, and water rights used in connection with the facility. In some instances, such easements or rights-of-

way will involve private lands, and will not be derived pursuant to State statutes authorizing the installation of facilities across lands of other owners. In such cases, it will be the responsibility of the borrower to obtain and record such releases, consents or subordinations to easements and rights-of-way from holders of outstanding liens as it determines, with the advice of its attorney, are necessary for the construction, operations, and maintenance of the facility on the right-of-way. However, when easements only are obtainable on sites for structures such as reservoirs and pumping stations, releases, consents, or subordinations may be required by the Farmers Home Administration. The mortgage will provide for the applicant to pay from its own funds any excess installation costs resulting from a failure to obtain adequate land, rights-of-way, or subordinations.

(R. S. 161, sec. 6, 50 Stat. 870, sec. 10, 68 Stat. 735; 5 U. S. C. 22, 16 U. S. C. 590w, 590x-3)

Dated: September 17, 1958.

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

[F. R. Doc. 58-7744; Filed, Sept. 22, 1958; 8:49 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

PART 83—SCREWWORMS

Pursuant to sections 1 and 2 of the Act of February 2, 1903, 32 Stat. 791, 792, as amended, and sections 4–7 of the Act of May 29, 1884, 23 Stat. 32, as amended (21 U. S. C. 111–113, 115, 117, 120), provisions to appear in a new Part 83, designated "Screwworms" in Title 9 of the Code of Federal Regulations, are hereby issued to read as follows:

Sec.
83.1 Definitions.
83.2 Notice relating to existence of screwworms.
83.3 Notice of regulation.
83.4 Interstate movements of affected livestock.
83.5 Cleaning and treatment of means of conveyance, facilities and premises; litter and manure.
83.6 Interstate movement of livestock from certain areas of recurring infestation by road vehicle or on foot.
83.7 Interstate movement of livestock from certain areas of recurring infestation by railroad or water or air carrier.
83.8 Interstate movement of livestock from areas of seasonal infestation or northern part of Florida.
83.9 Certificates; forms and distribution.
83.10 Designation of inspection station.
83.11 Permitted precautionary spray; approved treatments.
83.12 Exceptions.
83.13 Responsibility for handling livestock.
83.14 Applicability of general provisions in Part 71 of this chapter.

AUTHORITY: §§ 83.1 to 83.14 issued under sec. 2, 32 Stat. 792, as amended; 21 U. S. C. 111. Interpret or apply secs. 4, 5, 6, 7, 23 Stat. 32, as amended; 21 U. S. C. 112, 113, 115, 117, 120.

§ 83.1 *Definitions.* As used in this part the following terms shall have the meanings set forth in this section:

(a) *Screwworms.* The communicable disease (myiasis) of livestock caused by the presence of the screwworm, Callitroga hominivorax.

(b) *Livestock.* Cattle, sheep, swine, goats, horses, mules, burros, or other livestock.

(c) *Director.* The Director of the Animal Disease Eradication Division, Agricultural Research Service, of the United States Department of Agriculture, or any other official of the Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *Federal Inspector.* An inspector of the Agricultural Research Service of the United States Department of Agriculture responsible for the function involved or a State employee appointed by the Department as a collaborator to perform the function involved.

(e) *Accredited veterinarian.* A veterinarian approved by the United States Department of Agriculture to perform the functions involved.

(f) *Person.* Any person, company, or corporation.

(g) *State.* Any State, the District of Columbia, or Puerto Rico.

(h) *Interstate.* From one State into or through any other State or Territory.

(i) *Area of recurring infestation.* The States designated as such in § 83.2 where screwworms usually exist throughout the year or where screwworms usually exist each year from May 1 through October 31.

(j) *Area of seasonal infestation.* The States designated as such in § 83.2 in which there is reason to believe screwworms may exist each year from May 1 through October 31.

(k) *Eradication area.* Alabama, Florida, Georgia, Mississippi, and South Carolina.

(l) *Florida quarantine line.* A line established by the State of Florida to separate areas quarantined by the State from non-quarantined areas lying to the north, such line beginning on the west coast of Florida at the mouth and on the north side of the Withlacoochee River and extending east along said river to U. S. Highway 19, then north along said highway to the intersection of that highway and State Highway 40 at Inglis, then east along said Highway 40 to the Town of Ocala and along its town limits so as to place all of the town south of the line, then east along State Highway 40 through the Town of New Smyrna Beach to the end of said Highway on the east coast of Florida east of the Indian River, then north to Ponce de Leon inlet.

(m) *Northern part of Florida.* That part of Florida north of the Florida quarantine line.

(n) *Southern part of Florida.* That part of Florida south of the Florida quarantine line.

(o) *Moved.* Shipped, transported or otherwise moved, or delivered or received for movement, by any person, via land, water, or air.

(p) *Permitted precautionary spray.* Any spray or other pesticide listed in § 83.11 or otherwise permitted by the Director in specific cases for use under the regulations in this part.

(q) *Approved treatment.* Any wound treatment listed in § 83.11 or otherwise permitted by the Director in specific cases for use under the regulations in this part.

(r) *Federally inspected slaughtering establishment.* Any establishment where slaughtering operations are conducted under Federal meat inspection pursuant to the Meat Inspection Act of March 4, 1907, as amended and extended (21 U. S. C. 71–96).

§ 83.2 *Notice relating to existence of screwworms.* Notice is hereby given that screwworms usually exist in Florida, Louisiana, Texas, and Puerto Rico throughout the year and usually exist in Arkansas during the period May 1 through October 31, both inclusive, of each year, and said areas are hereby designated as areas of recurring infestation. Notice is also hereby given that there is reason to believe that screwworms may exist in all other States of the United States during the period May 1 through October 31, both inclusive, of each year, and such States are hereby designated as areas of seasonal infestation.

§ 83.3 *Notice of regulation.* Notice is hereby given that in order to effectually suppress and extirpate screwworms, to prevent the spread and dissemination of the contagion thereof, and to protect the livestock of the United States, the regulations in this part or promulgated to govern the interstate movement of livestock from areas of recurring infestation and areas of seasonal infestation.

§ 83.4 *Interstate movements of affected livestock.* No livestock affected with, or carrying the contagion of, screwworms shall be moved interstate for any purpose.

§ 83.5 *Cleaning and treatment of means of conveyance, facilities and premises; litter and manure.* (a) (1) Railroad cars, trucks, boats, aircraft, and other vehicles used in connection with the interstate movement of any livestock affected with, or carrying the contagion of, screwworms shall be thoroughly cleaned and treated in accordance with this paragraph immediately after the livestock are unloaded at destination and at each point enroute where the livestock are transferred to another means of conveyance, if the carrier has been given notice from the United States Department of Agriculture or is otherwise on notice that the livestock are so affected or carry such contagion. Otherwise the boat, aircraft, or vehicle shall be so cleaned and treated immediately upon receipt of such notice and wherever it is then located, except that if the boat, aircraft, or vehicle is in transit at the time such notice is received such cleaning and treatment may be postponed until such means of conveyance arrives at its next destination,

where it shall be immediately cleaned and treated in accordance with this paragraph. Compliance with this paragraph shall be the responsibility of the carrier having custody of the means of conveyance at the time that cleaning and treatment is required.

(2) Except as provided in subparagraph (1) of this paragraph, no person, knowing that a railroad car, truck, boat, aircraft, or other vehicle has contained any livestock affected with, or carrying the contagion of, screwworms shall move such boat, aircraft, or vehicle interstate for any purpose until it has been thoroughly cleaned and treated in accordance with this paragraph.

(3) Yards, pens, chutes, alleys, and other facilities and premises which have been used in connection with interstate shipments of any livestock affected with, or carrying the contagion of, screwworms shall be thoroughly cleaned and treated in accordance with this paragraph immediately after such use. Compliance with this requirement shall be the responsibility of the person in possession of such premises or facilities.

(4) All cleaning and treatment required by this paragraph shall be conducted under supervision of a Federal inspector, and shall be conducted in accordance with § 71.9 of this chapter except that all litter and manure removed from any means of conveyance, facilities or premises shall be handled in such a manner as is required by the inspector to insure the destruction of screwworms (in any stage of the life cycle) that might be contained therein; and instead of a permitted disinfectant, dieldrin or heptachlor shall be used in accordance with directions given by the Federal inspector to carry out the purposes of this part; and it shall not be necessary to treat the surfaces of fencing or troughs. Aircraft shall be subject to the same requirements as are applicable to boats, and all other vehicles shall be subject to the same requirements as are applicable to cars under this paragraph and § 71.9 of this chapter.

(b) Whenever any livestock are inspected at an inspection station or other place under § 83.6 or § 83.7 (a) or (b), all straw and other litter in the railroad car, truck, boat, aircraft, or other vehicle, used in connection with the movement of the livestock to such station or other place shall be thoroughly saturated with dieldrin, heptachlor or Bayer 21/199 under the supervision of the Federal inspector. No person, knowing that a railroad car, truck, boat, aircraft, or other vehicle, is one in which such livestock were moved to such an inspection station or other place under this part, shall move such means of conveyance interstate until all litter therein has been treated as required by this paragraph.

§ 83.6 *Interstate movement of livestock from certain areas of recurring infestation by road vehicle or on foot.* Except as authorized under § 83.12, no livestock shall be moved by road vehicle or on foot, interstate, into or through any part of the eradication area from Louisiana or Texas, or the southern part of Florida at any time, or from Arkansas during the period May 1 to October 31, both inclusive, of any year, unless:

(a) Such livestock have been inspected by a Federal inspector at an appropriate inspection station designated in § 83.10; have been found upon such inspection to be free of any evidence of screwworms; then have been thoroughly treated with a permitted precautionary spray under the supervision of the inspector at such inspection station; and have been certified by the inspector in accordance with § 83.9 (a) and are accompanied to destination by such certificate; or

(b) Such livestock are being moved, for immediate slaughter, to a federally inspected slaughtering establishment or to a slaughtering establishment specifically approved in § 78.15 (b) of this chapter; have been inspected by a Federal inspector at an appropriate inspection station designated in § 83.10; have been found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock have ben given an approved treatment under the supervision of the inspector at such station; and the livestock have been certified by the inspector in accordance with § 83.9 (b) and are accompanied to destination by such certificate; or

(c) Such livestock are lactating cows or goats for dairy purposes or any livestock under two weeks of age; have been inspected by a Federal inspector at an appropriate inspection station designated in § 83.10; have been found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock have been given an approved treatment under the supervision of the inspector at such station; and the livestock have been certified by the inspector in accordance with § 83.9 (c) and are accompanied to destination by such certificate.

§ 83.7 *Interstate movement of livestock from certain areas of recurring infestation by railroad or water or air carrier.* (a) Except as authorized under § 83.12, no livestock shall be moved by railroad, interstate, into or through any part of the eradication area from Louisiana or Texas at any time, or from Arkansas during the period May 1 to October 31, both inclusive, of any year, unless: (1) Such livestock have been unloaded at a feed-water-and-rest station at Baton Rouge, Louisiana, or a public stockyard, designated in § 78.14 of this chapter, at New Orleans, Louisiana, or Memphis, Tennessee, where in either case Federal inspection is made available, or are moved to such a station in Vicksburg, Mississippi, from Louisiana by the shortest possible route; are inspected by a Federal inspector at such station or stockyard and found upon such inspection to be free of any evidence of screwworms; then are thoroughly treated at such station or stockyard with a permitted precautionary spray under the supervision of the inspector; and are certified by the inspector in accordance with § 83.9 (a) and are accompanied to destination by such certificate; or

(2) Such livestock are being moved, for immediate slaughter, to a federally inspected slaughtering establishment or to a slaughtering establishment specifically approved in § 78.15 (b) of this chapter; are moved to and unloaded and inspected at a feed-water-and-rest station or a public stockyard as provided in subparagraph (1) of this paragraph and found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock are given an approved treatment under the supervision of the ispector at such station or stockyard; and the livestock are certified by the inspector in accordance with § 83.9 (b) and are accompanied to destination by such certificate; or

(3) Such livestock are lactating cows or goats for dairy purposes or any livestock under two weeks of age; are moved to and unloaded and inspected at a feed-water-and-rest station or a public stockyard as provided in subparagraph (1) of this paragraph and found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock are given an approved treatment under the supervision of the inspector at such station or stockyard; and the livestock are certified by the inspector in accordance with § 83.9 (c) and are accompanied to destination by such certificate.

(b) Except as authorized under § 83.12, no livestock shall be moved by railroad or water or air carrier, interstate, into or through any part of the eradication area from the southern part of Florida at any time, unless prior to loading at the point of origin of the shipment such livestock have been inspected by a Federal inspector; have been found upon such inspection to be free of any evidence of screwworms; then have been thoroughly treated with a permitted precautionary spray under the supervision of the inspector; and have been certified by the inspector in accordance with § 83.9 (a) and are accompanied to destination by such certificate, except that (1) livestock being moved, for immediate slaughter, to a federally inspected slaughtering establishment or to a slaughtering establishment specifically approved in § 78.15 (b) of this chapter, and (2) lactating cows and goats for dairy purposes and any livestock under two weeks of age shall not be treated with the permitted precautionary spray but any wounds of such livestock shall be given an approved treatment under the supervision of the inspector and the livestock shall be certified by the inspector in accordance with § 83.9 (b) or (c), respectively.

(c) Except as authorized under § 83.12, no livestock shall be moved by water or air carrier, interstate, into or through any part of the eradication area from Louisiana, Texas or Puerto Rico at any time, or from Arkansas during the period May 1 to October 31, both inclusive, of any year, unless such livestock have been inspected by a Federal inspector or an accredited veterinarian within 36 hours prior to loading at the point of origin of the shipment; have been found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock have been given an approved treatment under the supervision of the inspector; and the livestock have

been certified by the inspector in accordance with § 83.9 (d) and are accompanied to destination by such certificate.

§ 83.8 *Interstate movement of livestock from areas of seasonal infestation or northern part of Florida.* (a) Except as provided in paragraph (b), (c), or (d) of this section or under § 83.12, no livestock shall be moved by road vehicle, or on foot, or by railroad or water or air carrier, interstate, into or through any part of the eradication area from any of the areas of seasonal infestation outside the eradication area, during the period May 1 to October 31, both inclusive, of any year, or from the northern part of Florida at any time, unless such livestock have been inspected by a Federal inspector or an accredited veterinarian and found to be free of any evidence of screwworms within 36 hours prior to loading for such movement and have been certified by the inspector or veterinarian in accordance with § 83.9 (d) and the certificate accompanies the livestock to destination.

(b) Except as provided in pragraphs (c) and (d) of this section, livestock originating in North Carolina or Tennessee may be moved interstate into Mississippi, Alabama, Georgia, or South Carolina from North Carolina or Tennessee during the period May 1 to October 31, both inclusive, of any year directly to a federally inspected slaughtering establishment or to a slaughtering establishment specifically approved in § 78.15 (b) of this chapter, for immediate slaughter, or to a federally inspected stockyard or a specifically approved stockyard listed in § 78.14 of this chapter, without inspection and certification as required by paragraph (a) of this section, if the livestock are accompanied to destination by a certificate signed by the consigner of the livestock stating: (1) The number, kind, breed, and sex of livestock covered by the certificate; (2) the destination of the livestock; (3) the purpose for which the livestock are moved interstate; (4) the point from which the livestock are moved interstate; (5) the names and addresses of the consignor and consignee; and that to the best knowledge of the consignor such livestock bear no evidence of screwworms. The movement during said period from such stockyards to other destinations of such livestock must comply with the provisions of this part the same as if the livestock had been originally consigned direct from the point of origin to such destination except that any inspection and certification required shall be performed at such stockyards.

(c) Except as provided in paragraph (d) of this section or § 83.12, no livestock shall be moved by road vehicle, or on foot, or by railroad; or otherwise, interstate, into or through any part of the eradication area from any public stockyard designated in § 78.14 (a) of this chapter, where Federal inspection is maintained, at Memphis, Tennessee, during the period May 1 to October 31, both inclusive, unless: (1) Such livestock have been inspected by a Federal inspector at the stockyard; have been found upon such inspection to be free of any evidence of screwworms; then have been thoroughly treated under the supervision of a Federal inspector with a permitted precautionary spray at the stockyard; and have been certified by the Federal inspector in accordance with § 83.9 (a) and are accompanied to destination by such certificate, or (2) such livestock are being moved, for immediate slaughter, to a federally inspected slaughtering establishment or to a slaughtering establishment specifically approved in § 78.15 (b) of this chapter, have been inspected by a Federal inspector at such stockyard; have been found upon such inspection to be free of any evidence of screwworms; any wounds on the livestock have been given an approved treatment under the supervision of the inspector at such stockyard; and the livestock have been certified by the inspector in accordance with § 83.9 (b) and are accompanied to destination by such certificate; or (3) such livestock are lactating cows or goats for dairy purposes or any livestock under two weeks of age; have been inspected by a Federal inspector at the stockyard; have been found upon such inspection to be free of any evidence of screwworms; any wounds of the livestock have been given an approved treatment under the supervision of the inspector at such stockyard; and the livestock have been certified by the inspector in accordance with § 83.9 (c) and are accompanied to destination by such certificate.

(d) Any livestock being moved interstate from any of the areas of seasonal infestation through any of the areas of recurring infestation, except the northern part of Florida, in transit into or through any part of the eradication area, shall be deemed to be moving from such area of recurring infestation when they depart from it and shall be subject to the requirements of § 83.6 or § 83.7, instead of this section, unless they are moved through such area of recurring infestation wholly via air carrier, in which case they shall be subject to the applicable requirements of paragraph (a), (b), or (c) of this section.

§ 83.9 *Certificates; forms and distribution.* (a) When a lot of livestock has been inspected and found to be free of any evidence of screwworms and has been thoroughly treated with a permitted precautionary spray at an inspection station or other place in accordance with § 83.6 (a), § 83.7 (a) (1) or (b), § 83.8 (c) (1), or § 83.12 (a), the inspector may issue a certificate, in quadruplicate, reciting such facts, identifying the lot by number of livestock, kind, breed, and sex, and giving the date of inspection and treatment, the names and addresses of the consignor and consignee, and the point of origin and destination of the shipment.

(b) When a lot of livestock, to be moved under this part, for immediate slaughter, to a federally inspected slaughtering establishment or a slaughtering establisment specifically approved in § 78.15 (b) of this chapter, has been inspected and found free of any evidence of screwworms and treated at an inspection station or other place in accordance with § 83.6 (b), § 83.7 (a) (2) or (b), § 83.8 (c) (2), or § 83.12 (a), the inspector may issue a certificate in quadruplicate, reciting that the lot has been so inspected and found free of any evidence of screwworms and treated, identifying the lot by number of livestock, kind, breed, and sex, and giving the date of inspection and treatment, the names and addresses of the consignor and consignee, and the point of origin and destination of the shipment.

(c) When a lot of lactating cows or goats for dairy purposes or any livestock under two weeks of age has been inspected and found free of any evidence of screwworms and treated at an inspection station or other place in accordance with § 83.6 (c), § 83.7 (a) (3) or (b), § 83.8 (c) (3), or § 83.12 (a), the inspector may issue a certificate, in quadruplicate, reciting that the lot has been so inspected and found free of any evidence of screwworms and treated, identifying the lot by number of livestock, kind, breed, and sex, and giving the date of inspection and treatment, the names and addresses of the consignor and consignee, and the point of origin and destination of the shipment.

(d) When a lot of livestock, to be moved from an area of seasonal infestation or the northern part of Florida under § 83.8 (a), or by water or air carrier from an area of recurring infestation under § 83.7 (c), has been inspected by a Federal inspector or an accredited veterinarian and found to be free of any evidence of screwworms, in accordance with said sections, such inspector or veterinarian may issue a certificate, in quadruplicate, reciting that the lot has been so inspected and found free of any evidence of screwworms, identifying the lot by number of livestock, kind, breed, and sex, and giving the date of inspection, the names and addresses of the consignor and consignee, and the point of origin and destination of shipment. In the case of livestock moved under § 83.7 (c), the certificate shall also state that any wounds on the livestock have been given an approved treatment under the supervision of the inspector.

(e) The certificate forms may specify such other information as is required by the Director to carry out the purposes of this part.

(f) The original of each certificate provided for in this section shall be furnished to the applicant therefor and shall accompany the lot of livestock covered by it to destination. The official issuing the certificate should send a copy thereof to the State veterinarian and to the Federal veterinarian in charge of animal disease eradiction activities in the State of destination and should also retain a copy in his own file until other disposal is authorized by the Director of the Animal Disease Eradication Division.

§ 83.10 *Designation of inspection station.* (a) the following places along the eastern boundaries of Arkansas and Louisiana, the Louisiana-Mississippi State line and the Arkansas-Tennessee State line, are designated as inspection stations under this part for livestock moving by road vehicle or on foot, interstate, from Louisiana, Texas, or Arkansas into or through any part of the eradication area:

(1) The premises of Flowers Pierini in Chicot County, Arkansas, on the south side of U. S. Highway 82, approximately ¾ mile west of the Mississippi River Bridge at Greenville.

(2) The premises of Claude H. Brady in Delta, Madison Parish, Louisiana, fronting on U. S. Highway 80 and Railroad Avenue.

(3) The premises of Lum Brothers Stockyards in front of Lum Brothers Auction Barn on U. S. Highway 65 84, approximately five miles west of Vidalia, Concordia Parish, Louisiana.

(4) The premises of Frank W. Bennett in Norwood, East Feliciana Parish, Louisiana, on the east side of State Highway 19, approximately two miles south of the Louisiana-Mississippi State line.

(5) The premises of David A. DeLee in East Feliciana Parish, Louisiana, on the east side of State Highway 67 on a high mound approximately 2/10 mile south of the Louisiana-Mississippi State line.

(6) The premises of Louis Klotzbach in Tangipahoa Parish, Louisiana, on the east side of U. S. Highway 51, approximately 95 feet south of the Louisiana-Mississippi State line, 30 feet from the establishment known as Coulon's Package Liquor Store.

(7) The premises of Jasper J. Warner, Sr., in Warnerton, Washington Parish, Louisiana, on the east side of State Highway 25, approximately 7/10 mile south of the Louisiana-Mississippi State line.

(8) The premises of Dr. John L. Pope near Bogalusa in Washington Parish, Louisiana, on the south side of State Highway 10, beginning approximately 180 feet west from the west end of the Pearl River Bridge.

(9) The premises of G. H. Williams and Jerry Stewart in the Eighth Ward of St. Tammany Parish, in Pearl River, Louisiana, on U. S. Highway 11, approximately 80 feet south of the establishment known as Stewart's Bar.

(10) The premises of Mrs. Lois Daws Bolian in St. Tammany Parish, Louisiana, on the southeast side of U. S. Highway 90, near the Junction of U. S. Highways 90 and 190.

(11) The premises of the Gulf, Mobile, and Ohio Railroad Company in Angie, Washington Parish, Louisiana, bordering State Highway 21 on the west and the Gulf, Mobile and Northern Railroad on the east, approximately 150 feet south of a cotton gin.

(12) The premises of C. B. Hamilton in West Feliciana Parish, Louisiana, on the east side of U. S. Highway 61, approximately ¼ mile south of the Louisiana-Mississippi State line.

(13) The premises of the South Memphis Stockyards, 465 West Trigg Avenue, Memphis, Tennessee, located approximately 1 mile south of the U. S. Route 64 Arkansas-Tennessee Bridge.

(b) The following place on the Florida quarantine line in Florida is designated as an inspection station under this part for livestock moving by road vehicle or on foot, interstate, from the southern part of Florida into or through any part of the eradication area: The premises of Mills Auction Market in Ocala, Florida. Any premises in Florida located south of the Florida quarantine line may, for the purpose of the regulations in this part, be considered an appropriate inspection station for inspection, treatment, and certification of livestock to be moved interstate from the southern part of Florida in accordance with the regulations, if the shipper makes arrangements with a Federal inspector for such procedure; and such inspectors may perform all functions necessary for such inspection, treatment, and certification.

§ 83.11 *Permitted precautionary spray; approved treatments.* (a) The Department has authorized the use of the following as a permitted precautionary spray under this part:

Bayer 21/199 (CO-RAL) used as a suspension spray at a concentration of 0.25 percent. This spray shall be used for purposes of this part in strict accordance with directions to carry out the purposes of this part, given by the Federal inspectors under whose supervision the spray is applied.

(b) The Department has authorized the application of "EQ 335" or "Smear 62" as an approved treatment for wounds of livestock under this part.

(c) Other sprays or pesticides or wound treatments may be permitted in specific cases by the Director when it is demonstrated to his satisfaction that they are effective in preventing the dissemination of screwworms.

§ 83.12 *Exceptions.* (a) When the Director finds that any auction market is located within 8 air miles of any inspection station designated in § 83.10 and has adequate facilities for inspection, treatment, and certification of livestock in accordance with the requirements of this Part, and the operator of such stockyard has entered into an agreement with the State in which the stockyard is located, for its operation in accordance with specified safeguards, acceptable to the Director, to prevent the spread of screwworms, the Director shall issue administrative instructions designating such market as an inspection facility, auxiliary to such inspection station, for purposes of this paragraph. Thereafter, livestock arriving at such inspection station under § 83.6 may, if the shipper so desires, be moved to such market on the day of, or preceding the day of, the sale at such market, under permit issued by the inspector at such station, for inspection, treatment, and certification under § 83.6 in lieu of inspection, treatment, and certification at such station.

(b) The requirements of §§ 83.6 and 83.7 for treatment with a permitted precautionary spray shall not apply to equines which are shown to be primarily used for exhibition purposes and the appearance of which clearly indicates daily grooming, but the inspection and certification requirements of said sections shall apply to such animals except as provided in this paragraph. If on inspection such animals are found to have any wounds, the wounds shall be given an approved treatment under the supervision of the inspector. Certificates issued under Section 83.9 for such animals shall indicate that they have not been given the spray treatment but that any wounds have been given an approved treatment.

(c) The Director, in specific cases in which, in his opinion, no risk of spread of screwworms exists, may authorize the movement of livestock not known to be affected with, or to carry the contagion of, screwworms, and vehicles, boats, and aircraft, otherwise prohibited by this part, under such conditions as he may require to carry out the purposes of this part.

§ 83.13 *Responsibility for handling livestock.* All unloading, reloading, and other handling of livestock at the inspection stations or other places for purposes of inspection, treatment, and certification under this part shall be the responsibility of the carrier transporting the animals to such place.

§ 83.14 *Applicability of general provisions in Part 71 of this chapter.* The provisions in Part 71 of this chapter shall be applicable with respect to the movement of livestock and cleaning and treatment of means of conveyance, facilities and premises to prevent the dissemination of screwworms only insofar as they are not in conflict with the provisions in this part.

The foregoing provisions are intended to prevent the interstate spread of screwworms and to facilitate a Federal-State program now in operation for the control and eradication of the disease. In order to accomplish their purposes they should be made effective as soon as possible. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice of rule-making and other public procedure with respect to such provisions are impracticable and contrary to the public interest and good cause is found for making them effective less than 30 days after their publication in the FEDERAL REGISTER.

The foregoing provisions shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 18th day of September 1958.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 58-7774; Filed, Sept. 22, 1958; 8:54 a. m.]

PART 83—SCREWWORMS

ADMINISTRATIVE INSTRUCTIONS

Pursuant to sections 1 and 2 of the Act of February 2, 1903, 32 Stat. 791, 792, as amended, and sections 4–7 of the Act of May 29, 1884, 23 Stat. 32, as amended (21 U. S. C. 111–113, 115, 117, 120), and § 83.12 of the regulations thereunder in 9 CFR Part 83, administrative instructions to appear in 9 CFR 83.12a are hereby issued as follows:

§ 83.12a *Administrative instructions designating auxiliary inspection facilities.* In accordance with § 83.12, the Director has found that the auction markets listed below are within 8 air miles,

respectively, of the inspection stations listed below and otherwise qualify for designation as auxiliary inspection facilities.

Inspection stations	*Auction markets*
1. The premises of Flowers Pierini in Chicot County, Ark., on the south side of U. S. Highway 82, approximately ¾ mile west of the Mississippi River Bridge at Greenville.	1. Tri-States Stockyard, Greenville, Miss.
2. The premises of Claude H. Brady in Delta, Madison Parish, La., fronting on U. S. Highway 80 and Railroad Avenue.	2. Lum Brothers Auction Market, Vicksburg, Miss.
3. The premises of Lum Brothers stockyards in front of Lum Brothers Auction Barn on U. S. Highway 65–84, approximately five miles west of Vidalia, Concordia Parish, La.	3. Lum Brothers Auction Market, Natchez, Miss.

Therefore, each such auction market is designated as an inspection facility, auxiliary to its respective inspection station for the purposes of § 83.12.

These instructions shall become effective upon publication in the FEDERAL REGISTER.

The foregoing instructions relieve certain restrictions of the new screwworm regulations which are published in the FEDERAL REGISTER concurrently herewith and will become effective upon publication. In order to effectuate the purposes of these instructions they should be made effective at the same time as the regulations. Therefore it is found upon good cause under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that notice and other public rule making procedure on the instructions are impracticable and contrary to the public interest, and since they relieve restrictions they may be made effective less than 30 days after publication. Done at Washington, D. C. this 18th day of September 1958.

(Sec. 2, 32 Stat. 792, as amended; 21 U. S. C. 111)

[SEAL] R. J. ANDERSON,
Director,
Animal Disease Eradication Division.

[F. R. Doc. 58-7775; Filed, Sept. 22, 1958; 8:55 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 42-16]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

AUTHORIZATION FOR OPERATORS TO CONDUCT CERTAIN CHARTER AND OTHER SPECIAL SERVICE OPERATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 17th day of September 1958.

Part 46 of the Civil Air Regulations, Scheduled Air Carrier Helicopter Certification and Operation Rules, will become effective on October 1, 1958. The currently effective provisions of Part 42 permit a scheduled air carrier operating under Part 40 or 41 to conduct certain charter or other special service operations under Part 40 or 41 between points which it is authorized to serve under the terms of its operating certificate. However, the carrier is required to have its air carrier operating certificate amended to permit such operations.

In promulgating new Part 46, it was the Board's intention that similar authorization be granted to the holders of scheduled air carrier helicopter certificates as is presently afforded carriers operating under the provisions of Part 40 or 41 It is necessary, therefore, that Part 42 be amended prior to the effective date of Part 46 in order that this authority can be provided.

Since this amendment is permissive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and it may be made effective in less than 30 days.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) effective October 1, 1958.

By amending § 42.0 (b) by changing the reference "Part 40 or 41" in the first sentence to read "Part 40, 41, or 46."

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 609, 52 Stat. 1007, 1010, 1011, as amended; 49 U. S. C. 551, 554, 559)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F. R. Doc. 58-7766; Filed, Sept. 22, 1958; 8:53 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 17]

PART 514—TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS, PARTS, PROCESSES, AND APPLIANCES

TSO-C53, FUEL AND ENGINE OIL SYSTEM HOSE ASSEMBLIES

Minimum performance standards for fuel and engine oil system hose assemblies (rubber and wire braid construction) which are to be used on civil aircraft of the United States are defined in the new regulation § 514.52 (TSO-C53).

Section 514.52 appeared as a notice of proposed rule making in 23 F. R. 3546 on May 22, 1958. All interested persons have been afforded an opportunity to submit written views, data or argument. These comments have been considered and minor revisions to achieve consistency have been made in fire test procedure and requirements.

Section 514.52 is added under Subpart B of this part to read as follows:

§ 514.52 *Fuel and engine oil system hose assemblies (rubber and wire braid construction)—TSO-C53*—(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for fuel and engine oil system hose assemblies[1] of the following types which are to be used on civil aircraft of the United States:

(i) *Type A.* Non-fire-resistant "normal" temperature hose assemblies which are intended to be used in locations outside fire zones where the fluid and ambient air temperatures do not exceed 250° F.

(ii) *Type B.* Non-fire-resistant "high" temperature hose assemblies which are intended to be used in locations outside fire zones where the fluid and ambient air temperatures do not exceed 450° F.

(iii) *Type C.* Fire-resistant "normal" temperature hose assemblies which are intended to be used in locations within fire zones where the fluid and ambient air temperatures do not exceed 250° F.

(iv) *Type D.* Fire-resistant "high" temperature hose assemblies which are intended to be used in locations within fire zones where the fluid and ambient air temperatures do not exceed 450° F.

(*a*) New models of fuel and engine oil system hose assemblies manufactured on or after October 15, 1958, shall comply with the minimum requirements stated below:

(*1*) Type A hose assemblies shall comply with the "3.3 Performance" section requirements of Military Specification MIL-H-8795 (ASG) dated January 6, 1956.[2] The hose incorporated therein shall conform to "3.6 Performance" section of MIL-H-8794 (ASG) dated January 6, 1956,[2] except as noted in subparagraph (2) of this paragraph.

(*2*) Type B hose assemblies shall comply with the "3.6 Performance" section of Military Specification MIL-H-25579 (USAF) dated April 25, 1957,[2] except as noted in subparagraph (2) of this paragraph.

(*3*) Type C hose assemblies shall comply with the above requirements for Type A hose assemblies and in addition shall pass the fire test described in subparagraph (3) of this paragraph.

(*4*) Type D hose assemblies shall comply with the above requirements for Type B hose assemblies and in addition shall pass the fire test described in subparagraph (3) of this paragraph.

(2) *Exceptions.* (i) Type A hose assemblies are not required to comply with sections 3.6.2.7, 3.7, 3.7.1 and 3.8 of Military Specification MIL-H-8794 (ASG) dated January 6, 1956.

(ii) Type B hose assemblies are not required to comply with sections 3.6.7 and 3.6.10 of Military Specification MIL-H-25579 (USAF) dated April 25, 1957.

(3) *Fire test procedure and requirements*—(i) *Test setup and flame requirements.* (*a*) For the purpose of this test, a length of hose at least five times the outside diameter shall be subjected to a flame of the size and temperature specified in (*d*) and (*e*) of this subdivision while the hose is in a horizontal

[1] Hose assemblies for use in propeller feathering lines are covered in TSO-C42.

[2] Copies of these specifications may be obtained by addressing a request to: Commander, Air Materiel Command, Wright-Patterson Air Force Base, Dayton, Ohio.

position. The entire end fitting shall also be subjected to this flame.

(b) The hose assembly shall be installed horizontally in the test setup in such a manner that it includes at least one full 90° bend.

(c) During the test the end fitting which is subjected to flame shall be vibrated at the rate of 2,000 cycles per minute through a total amplitude of not less than ⅛ inch, i. e., a displacement of 1/16 inch on each side of the neutral position.

(d) The flame temperature shall be 2,000° F., plus or minus 50° F. as measured within ¼ inch of the surface of the hose and end fitting at the point nearest the flame. Suitable shielded thermocouples or equivalent temperature measuring devices shall be used for measuring the flame temperature. Thermocouple(s) should be chromel-alumel, and of No. 18 gage wire or preferably platinum-platinum plus 13 percent rhodium combination with 0.037 diameter wire. A sufficient number of these shall be used to assure that the specified temperature exists at least along the entire end fitting and along the hose for a distance of not less than three times the outside diameter of the hose.

(e) The flame diameter shall not be less than three times the outside diameter of the hose. The length of the flame shall be such that it extends beyond the end fitting and hose when they are in place during the test for a distance of not less than three times the outside diameter of the hose. (For larger diameter hose assemblies more than one source of heat may be required.)

(f) During the test SAE 20 oil or equivalent shall be circulated through the hose assembly and the oil shall enter the hose assembly at a temperature of not less than 200° F.

(ii) *Fire test procedure.*

Pressure: 30 psi.
Oil flow rate: 5 × (Hose assembly actual ID in inches)². (Example: Flow rate for −16 size=5 × (⅞)²=3.8 GPM.)
Duration: 5 minutes.

(iii) *Criteria for acceptability.* The hose assembly shall be considered acceptable if it complies with these test conditions without evidence of leakage.

NOTE: The use of full length protective sleeves over the hose and end fittings is permitted to facilitate compliance with the fire test requirement. Sleeves should be secured at both ends with steel clamps or safety wire.

(b) *Marking.* The markings required are specified in § 514.3 with the following exceptions:

(1) Trademark may be used in lieu of name, and manufacturer's address is not required.

(2) In lieu of the weight specified in paragraph (c) of § 514.3, the size of the hose assembly shall be shown.

(3) The applicable TSO number shall be followed immediately by the appropriate type designation, as TSO–C53–Type B. Where a protective sleeve is employed, the information should be legibly stamped on a steel (or other fireproof) band securely affixed to the hose assembly.

(c) *Data requirements.* The following information and data should be submitted with the letter of conformance:

(1) One copy of drawing showing the hose assembly construction, materials, part numbers and the recommended maximum and minimum fluid and ambient temperatures for continuous operation. The following data should be shown for each size: Burst pressure (minimum), Operating pressure (maximum), Bending radius (minimum).

(2) One copy of any installation instructions and/or other pertinent information (may be shown on drawing).

(d) *Effective date.* October 15, 1958.

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

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

SEPTEMBER 16, 1958.

[F. R. Doc. 58-7723; Filed, Sept. 22, 1958; 8:45 a. m.]

[Amdt. 29]

PART 550—FEDERAL AID TO PUBLIC AGENCIES FOR DEVELOPMENT OF PUBLIC AIRPORTS

PROJECT COSTS

Acting pursuant to the authority vested in me by the Federal Airport Act, I hereby amend Part 550 of the regulations of the Civil Aeronautics Administration as follows:

Section 550.4 (c) is hereby amended to read as follows:

§ 550.4 *Project costs.* * * *

(c) United States share of project costs. * * *

(1) *Project costs other than costs of installation of high intensity lighting on runways designated instrument landing runways.* The United States share of the project costs (other than costs of installation of high intensity lighting on runways designated instrument landing runways) of an approved project for the development of an airport, regardless of the size or location of the airport to be developed, shall be 50 percent of the allowable project costs of the project (other than costs of installation of high intensity lighting on runways designated instrument landing runways), except that this share, in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein shall be increased as provided in section 10 (b) of the Act and except that the United States share shall be 75 percent in the case of the Territory of Alaska and the Virgin Islands, all as set forth in the following table:

UNITED STATES' PERCENTAGE SHARE OF ALLOWABLE PROJECT COSTS IN STATES CONTAINING UNAPPROPRIATED AND UNRESERVED PUBLIC LANDS AND NONTAXABLE INDIAN LANDS

Arizona	60.96	New Mexico	56.30
California	54.12	Oregon	55.92
Colorado	53.28	South Dakota	52.74
Idaho	55.74	Utah	62.20
Montana	53.24	Washington	51.68
Nevada	62.50	Wyoming	57.19

NOTE: The percentages listed in this table will vary as changes occur with respect to the area of unappropriated and unreserved public lands and nontaxable Indian lands in the several States, in which event such changed percentages will be used by the Administrator in determining the United States share of allowable project costs other than costs of installing high intensity runway lighting on runways designated as instrument landing runways.

(Secs. 1–15, 60 Stat. 170–178, as amended; 49 U. S. C. and Sup., 1101–1114)

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

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

SEPTEMBER 16, 1958.

[F. R. Doc. 58-7722; Filed, Sept. 22, 1958; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7051]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

LOUIS SEAMON ET AL.

Subpart—*Furnishing means and instrumentalities of misrepresentation or deception:* § 13.1056 *Preticketing merchandise misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1185 *Composition;* § 13.1280 *Price.* Subpart—*Misrepresenting oneself and goods—*Prices: § 13.1811 *Fictitious preticketing.*

(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, Louis Seamon et al. d/b/a A & L Seamon, Brooklyn, N. Y., Docket 7051, August 23, 1958]

In the Matter of Louis Seamon, Irene Seamon, Al Seamon, and Bessie Seamon, Individually and as Co-partners d/b/a A & L Seamon

This proceeding was heard by a hearing examiner on the complaint of the Commission charging manufacturers in Brooklyn, N. Y., with stamping wallets and billfolds as "genuine leather" or "top grain cowhide" which were not entirely made of either, and attaching to them price tickets with purported retail prices which were fictitiously high.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on August 23 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents Louis Seamon, Irene Seamon, Al Seamon and Bessie Seamon, individually and as co-partners doing business as A & L Seamon or under any other name and respondents' representatives, agents 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 wallets and billfolds or other articles of merchandise, do forthwith cease and desist from:

1. Representing directly or by implication that billfolds and wallets or other articles made in whole or in part of substance other than leather are made of leather.

2. Representing directly or by implication that billfolds and wallets or other articles made in whole or in part of substance other than top grain cowhide are made of top grain cowhide.

3. Supplying purchasers of billfolds, wallets or other merchandise with price tags having prices or amounts which are in excess of the usual or regular retail selling prices of said billfolds, wallets or other merchandise or otherwise representing that the usual or regular retail price of merchandise is any amount greater than the price at which such merchandise is usually and regularly sold.

4. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail price of their products.

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 22, 1958.

By the Commission.

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

[F. R. Doc. 58-7736; Filed, Sept. 22, 1958; 8:47 a. m.]

[Docket 7022]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

ECONOMY PUBLISHERS

Subpart—*Advertising falsely or misleadingly:*

§ 13.115 *Jobs and employment service.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Carl V. Torrey doing business as Economy Publishers, Clearwater, Fla., Docket 7022, August 27, 1958]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a publisher in Clearwater, Fla., with using misleading employment offers—such as "cutting wanted items from your newspapers", "copying names for advertisers", "addressing envelopes", etc.—in newspapers and periodicals as a means of selling his pamphlets, booklets, and other printed materials.

Following acceptance of an agreement 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 respondent Carl V. Torrey, doing business as Economy Publishers or under any other trade name, and respondent's representatives, agents and employees, directly or through any corporate device, in connection with the offering for sale, sale or distribution of publications or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using any advertising matter which represents, directly or by implication, that employment is offered by respondent or that payment will be made by respondent for services to be rendered when, in fact, the advertisement is only an offer to sell a product.

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

It is ordered, That respondent Carl V. Torrey, doing business as Economy Publishers 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 with the order to cease and desist.

Issued: August 28, 1958.

By the Commission.

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

[F. R. Doc. 58-7737; Filed, Sept. 22, 1958; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54688]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

MISCELLANEOUS AMENDMENTS

1. Section 8.8 (f) of the Customs Regulations, dealing with the entry of packed packages, includes a reference to § 8.52 but the latter section, which also deals with this subject, contains no cross reference to § 8.8 (f). In order to add such a reference, § 8.52 (a) is amended to read as follows:

(a) Packed packages, which may be separately entered under the provisions of section 484 (f), Tariff Act of 1930, as amended,[1] and § 8.8 (f), shall be marked to indicate that they are packed packages.

(Secs. 484, 624, 46 Stat. 722, as amended, 759; 19 U. S. C. 1484, 1624)

2. Foreign vessels are permitted to engage in coastwise trade only rarely. To avoid possible misunderstanding, the Bureau deems it advisable to amend the form of the declaration of trade or business required under § 10.64 (a) of the Customs Regulations when a foreign vessel proceeds in ballast from the port of lading of articles withdrawn conditionally free under section 309 (a) of the Tariff Act of 1930, as amended.

Accordingly, the declaration of business or trade which may be required from a foreign vessel as set forth in § 10.64 (a) of the Customs Regulations is amended by changing the period after "4. Trade between the United States and any of its possessions" to a comma and adding "when such trade is not prohibited by coastwise laws."

(Secs. 309, 624, 46 Stat. 690, as amended, 759; 19 U. S. C. 1309, 1624)

[SEAL] D. B. STRUBINGER, *Acting Commissioner of Customs.*

Approved: September 16, 1958.

A. GILMORE FLUES, *Acting Secretary of the Treasury.*

[F. R. Doc. 58-7751; Filed, Sept. 22, 1958; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

[T. D. 6316]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

DISTILLED SPIRITS AND BEER

The purpose of this Treasury decision is to provide regulations implementing sections 207 and 210 (f) of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress).

PARAGRAPH 1. Section 210 (f) of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress) reads as follows:

SEC. 210 (f). *Continuation of Distiller's Notice and Bond.* Notwithstanding any provision of section 5175 or 5176 (a) of the Internal Revenue Code of 1954, the Secretary of the Treasury or his delegate may waive, as to registered distillers or registered fruit distillers qualified to operate under bond on April 30, 1959, requirements for filing notice and executing new bond on May 1, 1959, if the distiller and the surety have executed consent to continuation of the terms of the existing bond to cover operations from May 1, 1959, to June 30, 1959, both dates inclusive. Nothing in this subsection shall be construed as limiting the authority of the Secretary of the Treasury or his delegate under section 5176 (b) or (c) of the Internal Revenue Code of 1954.

Pursuant to the above provisions of law, the following new subpart, Subpart H, is added to 26 CFR Part 170:

SUBPART H—WAIVER OF REQUIREMENTS FOR DISTILLER'S NOTICE AND BOND ON MAY 1, 1959

Sec.
170.141 Scope of subpart.

DEFINITIONS

170.142 Meaning of terms.

WAIVER OF REQUIREMENTS CONCERNING DISTILLER'S NOTICE AND BOND

Sec.
170.143 Authority.
170.144 Qualification for waiver.

CONSENT OF SURETY ON DISTILLER'S BOND (OR INDEMNITY BOND)

170.145 Execution.
170.146 Authority to approve.
170.147 Disposition by assistant regional commissioner.

AUTHORITY: §§ 170.141 to 170.147 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 170.141 *Scope of subpart.* This subpart provides procedures under section 210 (f) of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress) to permit continuation of the terms of existing distillers' bonds to cover operations from May 1, 1959, to June 30, 1959, both dates inclusive.

DEFINITIONS

§ 170.142 *Meaning of terms.* When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine as well. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington 25, D. C.

Distiller. The qualified proprietor of a registered distillery or a registered fruit distillery.

I. R. C. The Internal Revenue Code of 1954.

Registered distillers or registered fruit distillers. The proprietors of registered distilleries established and operated under 26 CFR Part 220, or the proprietors of registered fruit distilleries established and operated under 26 CFR Part 221.

U. S. C. The United States Code.

WAIVER OF REQUIREMENTS CONCERNING DISTILLER'S NOTICE AND BOND

§ 170.143 *Authority.* Notwithstanding the provisions of Part 220 or Part 221 of this chapter which require distillers to file notice and execute new bond annually on the first day of May, assistant regional commissioners may waive the filing of notice and the execution of new bond on May 1, 1959, by a distiller who is qualified to operate on April 30, 1959, if the distiller files the request for waiver and the consent of surety as provided in § 170.144.

§ 170.144 *Qualification for waiver.* Every distiller who desires a waiver of the requirements for filing notice and new bond on May 1, 1959, shall submit a written request for such waiver to the assistant regional commissioner. The request must be accompanied by the surety's consent to the extension of the term of the bond to cover the period May 1, 1959, to June 30, 1959, both dates inclusive, executed as prescribed in § 170.145. Where the distiller does not have a clear title to the tract of land on which the distillery is situated, or does not own the distilling apparatus and equipment, and has on file a consent on Form 1602 which expires April 30, 1959, a consent on Form 1602 for the period May 1, 1959, to June 30, 1959, both dates inclusive, shall accompany the request for waiver. The Form 1602 shall be executed as provided in Part 220 or 221 of this chapter, as the case may be. Where the distiller has filed an indemnity bond on Form 3–A, in lieu of a consent on Form 1602, the surety's consent on Form 1533 to extension of such bond to cover the period from May 1, 1959 to June 30, 1959, both dates inclusive, executed as prescribed in § 170.145, shall also accompany the request for waiver.

CONSENT OF SURETY ON DISTILLER'S BOND (OR INDEMNITY BOND)

§ 170.145 *Execution.* Consents of surety submitted under the provisions of this subpart must be executed on Form 1533, in duplicate, by the distiller and the surety, in accordance with the instructions in the notice on the form. The Form 1533 must properly identify the bond affected thereby and contain the following statement of purpose:

To continue in effect the terms and conditions of said bond (including all extensions or limitations of such terms and conditions previously consented to and approved) to cover operations from May 1, 1959, to June 30, 1959, both dates inclusive.

§ 170.146 *Authority to approve.* Assistant regional commissioners are authorized to approve consents of surety required under this subpart.

§ 170.147 *Disposition by assistant regional commissioner.* Where the assistant regional commissioner approves the consent of surety, he will notify the distiller in writing that he is authorized to operate his distillery from May 1, 1959, to June 30, 1959, both dates inclusive, and will furnish him a copy of the approved consent of surety, Form 1533. The assistant regional commissioner will forward to the Director one copy of the letter of notification to the distiller, and forward to the Commissioner of Accounts one copy of each such consent of surety.

PAR. 2. Section 207 of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress) reads as follows:

SEC. 207. *Beer lost by reason of floods of 1951 or hurricanes of 1954*—(a) *Authorization.* The Secretary of the Treasury or his delegates shall pay (without interest) to the person specified in subsection (b) an amount equal to the amount of the internal revenue tax paid under section 3150 (a) of the Internal Revenue Code of 1939 on any fermented malt liquor which was lost, rendered unmarketable, or condemned by a duly authorized health official of the United States or of a State, by reason of the floods of 1951 or the hurricanes of 1954.

(b) *Conditions.* The payment provided by subsection (a) shall be made only if—

(1) Such fermented malt liquor was lost, rendered unmarketable, or condemned while in the possession of (A) the person who paid such tax, or (B) a dealer selling fermented malt liquor at wholesale or retail;

(2) The person paying the tax, or a dealer specified in paragraph (1) (B), files a claim for such payment with the Secretary of the Treasury or his delegate within 6 months after the effective date of this section; and

(3) The person filing such claim furnishes proof establishing to the satisfaction of the Secretary of the Treasury or his delegate (A) that the internal revenue tax on such fermented malt liquor was fully paid, (B) that such fermented malt liquor was lost, rendered unmarketable, or condemned, by reason of the floods of 1951 or the hurricanes of 1954, (C) in the case of fermented malt liquor rendered unmarketable or condemned, that such liquor has been destroyed, (D) that the claimant was not indemnified against loss of the tax by any valid claim of insurance or otherwise, and (E) if the claimant was not the possessor of the fermented malt liquor at the time it was so lost, rendered unmarketable, or condemned, (i) that such claimant has either reimbursed such possessor for the full cost of such fermented malt liquor, or has replaced for such possessor the full equivalent thereof, without receiving payment or credit of any kind in respect of the tax on such fermented malt liquor, and (ii) that such possessor was not indemnified against loss of the tax by any valid claim of insurance or otherwise (other than by such reimbursement or replacement by the claimant).

(c) *Regulations.* The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

Pursuant to the above provisions of law, the following new subpart, Subpart I, is added to 26 CFR Part 170:

SUBPART I—BEER LOST BY REASON OF THE FLOODS OF 1951 OR HURRICANES OF 1954

Sec.
170.155 Scope of subpart.

DEFINITIONS

170.156 Meaning of terms.

PAYMENTS

170.157 Circumstances under which payment may be made.
170.158 Persons to whom payment may be made.

CLAIMS PROCEDURE

170.159 Execution and filing of claim.
170.160 Return of claim for completion.
170.161 Claimant to furnish satisfactory proof.
170.162 Supporting evidence.
170.163 Reimbursement or replacement.
170.164 Action by assistant regional commissioner.

PENALTIES

170.165 Penalties.

AUTHORITY: §§ 170.155 to 170.165 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 170.155 *Scope of subpart.* This subpart prescribes the requirements necessary to implement section 207 of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress), concerning payments which may be made by the United States of amounts equal to the internal revenue tax paid on fermented malt liquor which was lost, rendered unmarketable, or condemned by reason of the floods of 1951 or the hurricanes of 1954.

DEFINITIONS

§ 170.156 *Meaning of terms.* When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine as well. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Beer or fermented malt liquor. All kinds and types of liquors produced by the fermentation of malt, wholly or in part, or from any substitute therefor.

Claimant. The person to whom payment may be made, as provided in § 170.158, and, in an instance where the beer has been replaced, such person and the possessor shall join in the claim.

Full equivalent. A quantity of beer, expressed in barrels of 31 gallons and fractions of barrels, equal to the quantity lost, rendered unmarketable, or condemned.

Health authority. Any health official having authority to authorize the condemnation of beer.

Person paying tax. The person, such as a brewer or importer, who originally paid the internal revenue tax on the beer under section 3150 (a) of the Internal Revenue Code of 1939.

Possessor. The person in whose possession the beer was held at the time it was lost, rendered unmarketable, or condemned, as specified in § 170.157.

Tax. The amount of internal revenue tax paid on the beer under section 3150 (a) of the Internal Revenue Code of 1939. From April 1, 1944, to October 31, 1951, the rate of such tax was $8 per barrel; from November 1, 1951, through the calendar year 1954, the rate of such tax was $9 per barrel.

PAYMENTS

§ 170.157 *Circumstances under which payment may be made.* Assistant regional commissioners are authorized to allow payment (without interest) of an amount equal to the amount of tax paid on beer which was lost, rendered unmarketable, or condemned by health authorities, by reason of the floods of 1951 or the hurricanes of 1954. Such payment may be made only if the beer was lost, rendered unmarketable, or condemned while in the possession of the person paying the tax or in the possession of a dealer selling beer at wholesale or retail and if a valid claim for payment is timely filed as provided in § 170.159.

§ 170.158 *Persons to whom payment may be made.* Claims may be filed by and payment may be made to any of the possessors referred to in § 170.157. Claims may also be filed by and payment made to (a) the person paying the tax, or (b) a dealer selling beer at wholesale or retail who has either reimbursed such possessor for the full cost of the beer or has replaced the full equivalent thereof for such possessor without receiving payment or credit of any kind in respect of the tax on such beer.

CLAIMS PROCEDURE

§ 170.159 *Execution and filing of claim.* A claim for payment shall be executed on Form 843 in accordance with such instructions thereon as are applicable, and must be filed with the assistant regional commissioner of the internal revenue region in which the beer was lost, rendered unmarketable, or condemned, within 6 months after the day following the date of enactment of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress). Any claim filed after the specified 6-month period will be rejected.

§ 170.160 *Return of claim for completion.* The regulations in this subpart contemplate that claims will be filed (a) where the possessor has been reimbursed for the cost of the beer or has received the full equivalent of the beer before the filing of the claim, and (b) where the completion of the claim is to await determination, as provided in § 170.163, of the quantity of beer lost, rendered unmarketable, or condemned, and the quantity to be replaced or for which reimbursement is to be made. In the event of (b), the claim will be returned to the claimant, on completion of such determination, for insertion of the necessary data.

§ 170.161 *Claimant to furnish satisfactory proof.* The claimant shall furnish proof establishing to the satisfaction of the assistant regional commissioner that:

(a) The internal revenue tax on the beer was fully paid.

(b) The beer was lost, rendered unmarketable, or condemned by a duly authorized health official, by reason of the floods of 1951 or the hurricanes of 1954.

(c) The beer, if rendered unmarketable or condemned, has been destroyed.

(d) The claimant was not indemnified against loss of the tax by any valid claim of insurance or otherwise.

(e) If the claimant was not the possessor of the beer at the time it was so lost, rendered unmarketable, or condemned, (1) that such claimant has either reimbursed such possessor for the full cost of such beer, or replaced for such possessor the full equivalent thereof, without receiving payment or credit of any kind in respect of the tax on such beer, and (2) that neither the claimant nor the possessor was indemnified against loss of the tax by any valid claim of insurance or otherwise (other than by such reimbursement or replacement by the claimant).

§ 170.162 *Supporting evidence.* The claimant shall support his claim with any evidence (such as inventories, statements, invoices, bills, records, stamps, and labels) that he is able to submit, relating to the quantity of taxpaid beer on hand at the time of the flood or hurricane and averred to have been lost, rendered unmarketable, or condemned as a result thereof.

§ 170.163 *Reimbursement or replacement.* The reimbursement of the full cost of the beer or the physical replacement of the beer for a possessor and the completion by the claimant of the claim may be delayed until determination has been made by the assistant regional commissioner as to the quantity of beer lost, rendered unmarketable, or condemned, by reason of a flood or hurricane, as provided in § 170.164. The findings of the assistant regional commissioner in this respect may be made available to the claimant and the possessor. The claim shall be fully completed with respect to evidence of reimbursement or replacement before being further processed by the assistant regional commissioner as provided in § 170.164. Nothing in this section shall be construed as extending the 6-month period provided by law for the original filing of claims under this subpart.

§ 170.164 *Action by assistant regional commissioner.* The assistant regional commissioner will date stamp and examine each claim filed under this subpart and will cause such investigation to be made as may be necessary to determine the quantities of beer lost, rendered unmarketable, or condemned, by reason of a flood or hurricane, and the validity of the claim. The claim will then be processed by him in accordance with existing procedures.

PENALTIES

§ 170.165 *Penalties.* Penalties are provided in sections 7206 and 7207 of the Internal Revenue Code for the execution under the penalties of perjury of any false or fraudulent statement in support of any claim and for the filing of any false or fraudulent document under this subpart.

Because sections 207 and 210 (f) of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress) are effective on the day following the date of enactment of the Act, it is found that it is impractical and contrary to the public interest to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act (60 Stat. 238, 5 U. S. C. 1003) or subject to the effective date limitation of section 4 (c) of such Act. Accordingly, this Treasury decision shall be effective on the day following the date of enactment of the Excise Tax Technical Changes Act of 1958 (H. R. 7125—85th Congress).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: September 17, 1958.

NELSON P. ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 58-7752; Filed, Sept. 22, 1958; 8:51 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter IV—Secret Service, Department of the Treasury

PART 400—ILLUSTRATIONS OF UNITED STATES POSTAGE STAMPS

REVOCATION OF PART

Prior to the Act of September 2, 1958, 72 Stat. 1771 (Public Law 85-921, 85th Cong.), the use of illustrations of United States postage stamps was controlled by regulations issued by the Secretary of the Treasury, subject to the approval of the President, pursuant to the Act of January 27, 1938, 52 Stat. 6 (Pub. Law 772, 80th Congress; 18 U. S. C. 504). The Act of September 2, 1958 amended existing law to make the use of such illustrations a matter governed by statute rather than by regulations issued by the Secretary of the Treasury, with the approval of the President.

Part 400 is obsolete and should be deleted.

[SEAL] U. E. BAUGHMAN,
Chief,
U. S. Secret Service.

[F. R. Doc. 58-7754; Filed, Sept. 22, 1958; 8:51 a. m.]

PART 404—FILM RECORDATION OF UNITED STATES AND FOREIGN OBLIGATIONS OR OTHER SECURITIES

REVOCATION OF PART

The Act of September 2, 1958, 72 Stat. 1771 (Pub. Law 85-921, 85th Cong.) amended existing law to permit the making of microfilms of obligations and securities of the United States for projection upon a screen, but not for advertising purposes, except philatelic advertising. Since microfilms of United States securities, checks, warrants, and paper money are now permitted by statute, regulations to permit the making of such films by banking institutions are no longer necessary.

Part 404 is hereby revoked.

[SEAL] U. E. BAUGHMAN,
Chief,
U. S. Secret Service.

[F. R. Doc. 58-7753; Filed, Sept. 22, 1958; 8:51 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter G—Procurement

PART 590—GENERAL PROVISIONS

PART 592—PROCUREMENT BY NEGOTIATION

PART 595—FOREIGN PURCHASES

MISCELLANEOUS AMENDMENTS

1. Sections 590.450 and 590.451 are revised and in § 590.453, revise paragraphs (g) and (h) and revoke paragraph (i), as follows:

§ 590.450 *Selection and appointment of contracting officers*—(a) *Appointing authority.* Contracting officers, as defined in § 1.201-5 of this title, shall be those designated by the persons listed below, or by persons who are authorized by the persons listed below to designate contracting officers. When so designated, they shall have the authority set forth in § 590.402 and the general responsibilities set forth in § 590.453.

(1) The Secretary of the Army.

(2) The Under Secretary of the Army or Assistant Secretary of the Army (Logistics).

(3) The Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

(4) Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army.

(5) Head of any procuring activity.

(6) Attachés.

(7) Chiefs of foreign missions (Army).

(8) Chiefs of Department of the Army sections of any joint military mission not operating under the jurisdiction of a major oversea command.

(9) Superintendent, United States Military Academy, West Point, N. Y.

(10) Such others as may be specifically designated in writing from time to time.

(b) *Selection.* The following shall be considered as required qualifications of individuals to be designated as contracting officers:

(1) Successful completion of the Procurement Management Course, Army Logistics Management Center, Fort Lee, Virginia, or equivalent training and experience.

(2) Evidence of business acumen and ability to exercise mature judgement.

(3) High standards of character, reputation, and business ethics.

(4) Desirable personality traits.

(5) Previous on-the-job training in a purchasing office.

(c) *Evaluation.* The following general guidelines shall be used in evaluating equivalent training referred to in paragraph (b) (1) of this section.

(1) Knowledge of Government contract law.

(2) Familiarity with the preparation of contracts and purchase orders.

(3) Thorough knowledge of Army procurement regulations and policies.

(4) Familiarity with commercial purchasing and contracting methods and practices.

(5) Ability to analyze, interpret, and evaluate the factors involved in the determination of reasonable price.

In evaluating an individual's training on the basis of the above general guidelines, consideration shall be given to the type of procurements to be made by the individual, i. e., formal advertising or negotiation, and the magnitude and complexity of procurements. For example, satisfactory completion of the Post, Camp, and Station Procurement Course, conducted by the Quartermaster School, Fort Lee, Virginia, or equivalent training, should normally provide an individual sufficient training to qualify him for appointment as a contracting officer at a post, camp, or station, or for similar type duties.

(d) *Surveillance.* In view of the high degree of individual responsibility and authority vested in a contracting officer, care will be exercised to insure that only well qualified individuals are appointed and retained in such positions. Performance of their duties as contracting officers will therefore be kept under close surveillance.

(e) *Appointment.* (1) Each contracting officer shall be designated by the name in special orders or by other appropriate administrative written instrument issued by the headquarters of the appointing authority and shall include a statement of the specific authorities delegated to such appointee. Such designation shall be rescinded in the same manner upon termination of the individual's assignment as contracting officer.

(2) Civilian personnel in grades below GS-12 or military personnel below the grade of major shall not be designated contracting officers with authority to execute a contractual document involved in the purchase of supplies, services, research and development or military construction in amounts of $100,000 or more. Exceptions to this requirement shall be made only in the most unusual cases.

§ 590.451 *Designation of representatives.* A contracting officer may designate any officer or civilian official, who is appropriately qualified, to act as his authorized representative. Such designation shall be in writing and shall define the scope and limitations of the authorized representative's authority.

§ 590.453 *General responsibility of contracting officers.* * * *

(g) Contracting officers are responsible for the legal, technical, and administrative sufficiency of the contracts they make. They should not hesitate to secure legal and technical (pricing, financial, production, inspection, etc.) advice within the Department of the Army.

(h) Contracting officers are responsible for knowing the scope and limitation of their authority.

(i) [Revoked]

2. Revise §§ 592.216-2, 592.216-3, 592.216-4, and 592.217-2 to read as follows:

§ 592.216-2 *Application*—(a) *General.* Supporting data transmitted with a request for a determination and findings under 10 U. S. C. 2304 (a) (16) must clearly demonstrate that the item to be procured is of such nature that procurement must be made by negotiation in order to meet the objectives stated in the applicable determination (§ 3.216-3 of this title).

(b) *Property.* Supporting data transmitted with request for approval and signature of determinations and findings for property shall include, as a minimum, the following information submitted pursuant to § 592.306:

(1) Statement that the supplies appear in the "Department of Defense Preferential Planning List of End Items," or "Department of the Army Planning List" (or statement that action has been initiated and is pending inclusion in such list);

(2) Initial and reorder lead times for the supplies;

(3) Minimum quantity required for economical production of the supplies;

(4) List by name, of planned mobilization suppliers;

(5) List by name, of current producers of the property;

(6) Government investment in facilities and tooling in plants of planned mobilization suppliers; and

(7) Description of any production or industrial mobilization characteristics of the property or services, the procurement of which requires limited competition.

(c) *Industrial mobilization projects.* (1) Supporting data transmitted with requests for approval and signature of determinations and findings for industrial mobilization projects shall include, as a minimum, the following information submitted pursuant to § 592.306:

(i) The items of property to which each measure or activity is related;

(ii) The type of measure or activity (pilot line, etc.) which is proposed and a brief description thereof;

(iii) The estimated cost of each measure or other activity; and

(iv) If not included elsewhere in the submission, a statement as to why award of a contract by competition is not feasible.

(2) Requests for determinations and findings pertaining to industrial mobilization projects will not be forwarded to the Deputy Chief of Staff for Logistics until the initial program approval has been obtained at the beginning of the fiscal year. Request for determinations and findings for industrial mobilization projects which have program approval, but require project approval at technical service level, may be processed to the Deputy Chief of Staff for Logistics before the project approval has been obtained. Other requests for determinations and findings for industrial mobilization projects will be submitted to the Deputy Chief of Staff for Logistics as an inclosure to one of the following:

(i) Request for inclusion of a new project in a previously approved program; or

(ii) Requests for approval of projects which have program approval and which require project approval by the Assistant Secretary of the Army (Logistics) or the Deputy Chief of Staff for Logistics.

§ 592.216–3 *Limitation.* When the proposed procurement of mobilization base items is substantially larger than the quantity which must be awarded in order to meet the objectives stated in the applicable determinations, under 10 U. S. C. 2304 (a) (16), that portion not required to meet such objectives shall ordinarily be obtained through formal advertising or by negotiation under another appropriate section of 10 U. S. C. 2304 (a).

§ 592.216–4 *Records and reports.* Reports required by § 3.216–4 of this title shall be made in the form and manner prescribed by Subpart C, Part 606 of this chapter.

§ 592.217–2 *Application.* 10 U. S. C. 2304 (a) (17) preserves the authority to negotiate contracts specifically conferred by statute other than the 10 U. S. C. 2301 et seq. Except as authorized in § 1.706–7 of this title, contracts shall not be negotiated under this authority without the prior approval of the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army. Requests for such approvals, with respect to either individual or classes of contracts, shall contain a statement of pertinent facts and reasons therefor, including the citation of the applicable statute, and shall be submitted through the Head of the Procuring Activity concerned to the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D. C.

3. In § 592.303, revise paragraph (b), and revise §§ 592.305 and 592.306, as follows:

§ 592.303 *Determinations and findings by the head of a Procuring Activity signing as "a Chief Officer responsible for procurement."* * * *

(b) The head of a Procuring Activity may delegate authority to make the determinations and findings required by §§ 3.403–4, 3.404, 3.405–1 and 3.405–2 of this title to the Deputy Head, Assistant Head, or to the Chief of Staff of the Procuring Activity, and to chiefs of such purchasing offices as he may designate. He may also personally select one alternate for each such delegate: *Provided, however,* That such alternate will be empowered to make the required determination only during periods of official absence of the delegate for whom he has been selected as alternate. Neither delegates nor their alternates may redelegate this authority.

§ 592.305 *Forms of determinations and findings*—(a) *Authority to negotiate an individual contract*—(1) *Form.* Individual determinations and findings with respect to the negotiation of contracts under the authority of §§ 3.211 to 3.216 of this title inclusive and as otherwise required by this subchapter shall be prepared substantially in the form set forth below and in the manner prescribed in § 592.306 (the signed statement is required only on the original copy when approval of the Secretary is required).

DEPARTMENT OF THE ARMY

DETERMINATION AND FINDINGS

Authority To Negotiate an Individual Contract

1. I hereby find that:

a. The (insert name of Procuring Activity) proposes to procure by negotiation (describe briefly the scope of the work, or the nature of the property or services called for).

b. The estimated cost of the proposed procurement is $_____.

c. The procurement by negotiation of the above described property (or service) is justified because (see pertinent paragraph of ASPR relating to "Application").

2. Upon the basis of the findings set forth above, I hereby determine that (insert statement of required determination under applicable paragraph of Part 2, Section III, ASPR or APP).

3. Subject to the availability of funds and providing that the above property (or services) has otherwise been authorized for procurement, it may, therefore, be procured by negotiation pursuant to 10 U. S. C. 2304 (a) (insert applicable subsection) and paragraph (insert applicable ASPR authority) of the Armed Services Procurement Regulation.

The statements made herein (and in the attachments hereto) are correct to the best of my knowledge and belief. Signature is recommended.

_____

(Signature)

(Title: Head of Procuring Activity, his Deputy or Chief of Staff)

(2) *Scope of determinations and findings.* In general, each determination and findings will be confined to a single page, setting forth the necessary findings as briefly as possible. Facts shall be limited to those which are necessary and relevant to support the determination to be made. With respect to the determination, it is important to set forth only that one which is most responsive to the various findings, and necessarily to confine it to the requirements and the particular language set forth under the applicable exception in provision of 10 U. S. C. 2301 et seq.; further in this connection, it is important to guard against a determination in the alternative (except possibly for the one relating to "experimental, developmental, or research work"). If certain requirements are optional, however, it is desired that the determination and findings list only those requirements of the exception which are essential and can be strongly supported. All other pertinent information should be included in the request for approval and signature of the determination and findings by the Secretary.

(b) *Authority to negotiate a class of purchases or contracts.* Determinations and findings with respect to the negotiation of classes of purchases or contracts, as referred to in § 3.301 of this title and § 592.301, shall be prepared as set forth in paragraph (a) of this section, with appropriate modifications to make it applicable to a class of purchases or contracts.

(c) *Advance payments.* Determinations and findings with respect to advance payments is set forth in Subpart E, Part 3 of this title and this part.

(d) *Method of contracting.* Determination and findings with respect to the use of a cost, cost-plus-a-fixed-fee, or incentive type contract, as set forth in Subpart D, Part 3 of this title and this part, shall be prepared for the signature of the Head of the Procuring Activity, or the officer or individual to whom authority to sign such determination and finding has been delegated pursuant to § 592.303 (b), substantially in the following form. (Heads of procuring activities and contracting officers may use the form set forth below as a guide in making the determination required by § 3.405–1 of this title and § 592.405–1.)

DEPARTMENT OF THE ARMY

DETERMINATION AND FINDINGS

Method of Contracting

1. I hereby find that:

a. The (insert name of Procuring Activity) proposes to procure (describe briefly the scope of the work, or the nature of the property or services called for).

b. The estimated cost of the proposed procurement is $------ (including, when applicable, a statement to the percentage of proposed fixed fee), chargeable to Fiscal Year ------ funds.

c. The use of a (insert type of a contract to be used) contract is the most practicable and likely to be the least costly method of contracting because (summarize such pertinent facts as are available and relevant to support the determination to be made in paragraph 2).

2. Upon the basis of the findings set forth above, I hereby determine that pursuant to 10 U. S. C. 2306 (a), and paragraph (insert applicable ASPR authority) of the Armed Services Procurement Regulation, that the use of a (insert type of contract) contract (a) is likely to be less costly than other methods of contracting, or (b) that it is impracticable to secure property (or services) of the kind or quality required without the use of a (insert type of contract) contract.

(Signature)

(Title)

§ 592.306 *Procedure with respect to determinations and findings.* (a) Requests for approval of determinations and findings referred to throughout Part 3 of this title and this part, which requires the signature of the Secretary of the Army or the Assistant Secretary of the Army, shall contain (1) a complete statement of facts, including supporting data necessary to demonstrate the applicability of the cited section of 10 U. S. C. 2301 et seq.; (2) a recommendation that the determinations and findings be signed; and (3) a determinations and findings prepared for the appropriate signature.

(b) Requests for approval of determinations and findings of authority to negotiate submitted for the signature of the Assistant Secretary of the Army (Logistics) will be signed by or for the Head of the Procuring Activity and shall include the following information in support of the requested determination:

(1) Complete statement of facts on the proposed procurement. The statement should contain sufficient descriptive information to enable the Assistant Secretary of the Army (Logistics) to make the determination required by 10 U. S. C. 2304 (a). The following minimum data should be contained in this statement, except that additional data required by § 592.211–3 (c) (1) to (5) shall be included when the determination is to be made under § 3.211 of this title and § 592.211.

(i) Detailed description in nontechnical language of the property or services to be procured.

(ii) The following statement will be included in requests for determinations and findings for procurement of supplies: "The proposed procurement is supported by valid requirements and the required program approvals have been obtained."

(iii) Expected starting and completion dates of the contracts and the estimated dollar amount of the purchase, for individual determinations and findings. For class determinations and findings, the estimated total number of purchases with the estimated total dollar amount, for the time period to be covered by the determination. Designation of funds by type and source, i. e., Research and Development, Procurement of Equipment and Missile Army, Operations and Maintenance, other Departments or Government agencies. In those instances where more than one type of funds will be utilized, the amount applicable to each category shall be indicated. When Operations and Maintenance funds are designated, justification will be included for the proposed use of such funds. When Military Assistance Program funds are designated the common item order numbers, quantity and country will be indicated.

(iv) Cite the data, page number, and item number of the approved buying list (such as shopping list of Current Material Program Annex VI—Procurement Schedules) when Procurement of Equipment and Missile Army funds are utilized.

(a) If the funds to be utilized are chargeable to a specific fiscal year, the statement shall indicate both the appropriate fiscal year and funds.

(b) If No Year Funds will be utilized for the proposed procurement, the statement shall read as follows: "The estimated cost of this procurement is $------ chargeable to (designate the appropriation) No Year Funds."

(v) Date of the original contract, name of the contractor, and total funds obligated to date, when the purchase action submitted for determination and findings is a contract modification.

(vi) Type of contract which is anticipated will be utilized (e. g., fixed-price, incentive, cost-plus-a-fixed-fee, etc.). If it is anticipated that a Time and Materials contract or a Labor Hour contract will be utilized a copy of the determination required by § 3.405–1 or § 3.405–2 of this title will be inclosed. Type of contract will not be listed for class determinations and findings.

(vii) Statement that there will be competition on the proposed procurement. If, however, solicitation is to be limited to a single source, the name and location of the firm and a brief explanation why the solicitation is to be limited will be included in lieu of the statement concerning competition.

(viii) Reason why procurement of the property or services by formal advertising is not feasible. Summarize such pertinent facts as are available and relevant to support the determinations to be made in paragraph 2 of the determinations and findings.

(2) Data indicating applicability of 10 U. S. C. 2304 (a). This data should demonstrate that the property, work, and circumstances are of the nature described by the pertinent section of 10 U. S. C. 2304 (a) (1) et seq. Department of the Army approved programs and projects should be cited if they serve to indentify the procurement as research and development, interests of industrial mobilization, etc. Previous contracts, status of Government tooling and facilities, and mobilization planning status are examples of other data which serve to identify the procurement with the cited section of 10 U. S. C. 2304 (a) (1) et seq.

(3) Data supporting designation of any classes for class determinations and findings.

(4) Recommendation for signature of the determinations and findings.

(c) The expiration date of a determination and finding is the end of the fiscal year in which it is signed unless otherwise specified in the determination and findings. Negotiations must be completed and the contract awarded prior to the expiration date of the determination and finding.

(d) The primary test in determining the quantity and dollar amount covered by a determination and finding is the actual demonstrated requirement that exists at the time the determination and finding is submitted to the Assistant Secretary of the Army (Logistics) for signature. The recitation of the estimated amount of a proposed procurement in a determination and findings, issued under § 3.305 (a) of this title, is not in itself to be regarded as a monetary limitation upon the authority of the contracting officer to negotiate the existing contract. However, such determination and findings may not be relied upon by a contracting officer as authority to negotiate a contract which includes work or services outside the scope of such determinations and findings.

(e) The determination and findings, request for approval and signature, and all supporting documents shall be submitted in an original and seven copies (if Military Interdepartmental Purchase Requests or similar documents relating to the transfer of funds are being submitted, duplicate copies of such documents will be sufficient) to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D. C., Attn: Chief, Contracts Branch.

4. Paragraph (a) of § 592.405–3 is revised to read as follows:

§ 592.405–3 *Letter contract.* * * *

(a) *Approval requirement.* Letter contracts, or any other type of preliminary contract, shall not be used without prior approval of the Chief, Contracts Branch, Deputy Chief of Staff for Logistics, Headquarters, Department of the Army, except that subject to the limitation set forth in § 3.405–3 of this title and this section, chiefs or deputy chiefs or a general officer of their immediate staff responsible for procurement are authorized to issue letter contracts in amounts representing not more than 50 percent of the total estimated amount of the definitive contract, provided, the estimated amount of the definitive contract does not exceed the approval authority of the particular technical service as authorized in §§ 606.204–3, 606.204–4, and 606.204–6 of this chapter. This authority shall not be redelegated. When the total estimated amount of the proposed definitive contract exceeds that which the procuring technical service is authorized to approve, or where it is desired to award a letter contract in amount in excess of 50 percent of the total estimated amount of proposed definitive contract, prior approval of the Chief, Contracts Branch, Deputy Chief of Staff for Logis-

tics, Headquarters, Department of the Army, is required.

5. Subpart O is added to Part 595, as follows:

SUBPART O—ADMINISTRATION OF THE BUY AMERICAN ACT—PURCHASES OF PETROLEUM PRODUCTS

Sec.
595.1500 Scope of subpart.
595.1501 General.
595.1502 Definitions.
595.1503 Procedures.
595.1503–1 Contract clauses.
595.1503–2 Evaluation of bids and proposals.

AUTHORITY: §§ 595.1500 to 595.1503–2 issued under sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 595.1500 *Scope of subpart.* This subpart sets forth procedures applicable to the purchase of petroleum products for use in the United States, in implementation of Executive Order 10761, dated March 27, 1958 (23 F. R. 2067, March 28, 1958).

§ 595.1501 *General.* The President, by Executive Order 10761, requested the executive departments and agencies to adopt certain procedures in making purchases of crude petroleum and petroleum products, and also provided that Executive Order 10582, December 17, 1954, which prescribes uniform procedures for certain determinations under the Buy American Act, shall not be applicable to purchases of crude petroleum and petroleum products. Pending the revision of Part 6 of this title and this part, to incorporate the procedures set out in Executive Order 10761, the procedures set forth in this subpart shall be followed in the administration of the Buy American Act with respect to purchases of petroleum products. To the extent that Part 6 of this title and the preceding subparts of this part, are inconsistent herewith, the provisions of this subpart shall govern.

§ 595.1502 *Definitions.* As used in this subpart, the following terms have the meanings set forth below:

(a) "Domestic petroleum product" means any product refined in the United States entirely from crude petroleum of wholly domestic origin.

(b) "Complying petroleum product" means any product refined in the United States in whole or in part from crude petroleum of foreign origin, all of which has been, or will be imported by a firm which, during the period of contract performance and for the three months preceding the month in which a bid is submitted to the Department of the Army, has imported crude petroleum in compliance with the Voluntary Oil Import Program, or which is certified by the Administrator, Voluntary Oil Import Program, as being in compliance under that Program.

(c) "Non-complying petroleum product" means any product refined in the United States in whole or in part from crude petroleum of foreign origin, other than "complying petroleum product."

(d) "Foreign refined petroleum product" means any petroleum product refined outside the United States.

(e) "United States" means the United States and any place subject to the jurisdiction of the United Sates (§ 6.101 (c) of this title).

§ 595.1503 *Procedures.*

§ 595.1503–1 *Contract clauses.* Every contract entered into by the Department of the Army for the purchase in the United States of petroleum products shall contain the following clause in lieu of the clause prescribed in § 6.104–5 of this title:

Buy American Act and Executive Order No. 10761

(a) For the purpose of this clause:

(i) "Domestic petroleum product" means any product refined in the United States from crude petroleum of wholly domestic origin;

(ii) "Complying petroleum product" means any product refined in the United States in whole or in part from crude petroleum of foreign origin, all of which has been, or will be imported by a firm which, during the period of contract performance and for the three months preceding the month in which the bid or offer which resulted in this contract is submitted, has imported crude petroleum" in compliance with the Voluntary Oil Import Program, or which is certified by the Administrator, Voluntary Oil Import Program, as being in compliance under that Program.

(iii) "United States" means the United States and any place subject to the jurisdiction thereof.

(b) Contractor agrees that there will be delivered under this contract only refined petroleum products of one of the types set forth above, except:

(i) When the petroleum products are for use outside the United States;

(ii) When the Government determines that neither domestic petroleum product nor complying petroleum product is produced or refined in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(iii) When the Secretary determines it would be inconsistent with the public interest to apply the preference to domestic petroleum product or complying petroleum product; or

(iv) When the Secretary determines the cost to the Government of domestic petroleum product or complying petroleum product to be unreasonable.

(c) If the supplies to be delivered hereunder are refined in the United States in whole or in part from imported crude, the Contractor agrees that during the contract period he will comply in all respects with the Voluntary Oil Import Program.

§ 595.1503–2 *Evaluation of bids and proposals.* (a) In evaluating bids or offers, no price differential will be applied between bids or offers of domestic petroleum product and those offering complying petroleum product.

(b) Otherwise acceptable bids or offers of foreign refined petroleum products will be accepted if such bid or offer is the lowest available bid or offer and (1) no bid or offer of domestic petroleum product or complying petroleum product is available for consideration, or (2) the lowest available bid or offer of a domestic petroleum product or complying product is 6 percent or more in excess of the sum of such bid or offer of foreign refined petroleum product, all costs of delivery to the place specified in the solicitation and the import tax or duty (whether or not an import tax or duty-free entry certificate may be issued).

(c) Bids or offers of non-complying petroleum product shall not be accepted.

(d) In determining whether a product is a complying petroleum product, a certificate issued by the Administrator, Voluntary Oil Import Program, shall be accepted as conclusive evidence of such compliance. In the absence of such a certificate, a certification or representation of compliance made by the supplier may be considered presumptive evidence of compliance.

[C10, APP, Aug. 1, 1958] (Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply Secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

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

[F. R. Doc. 58–7721; Filed, Sept. 22, 1958; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XIV—General Services Administration

[Rev. 1, Amdt. 8]

REG. 6—MANGANESE REGULATION: DOMESTIC MANGANESE PURCHASE PROGRAM

PARTICIPATION IN THE PROGRAM

Pursuant to the authority vested in me by Executive Order 10480, dated August 14, 1953 (18 F. R. 4939), as amended, General Services Administration Regulation 6 entitled "Manganese Regulation: Domestic Manganese Purchase Program," as heretofore revised and amended, is further amended as follows:

1. In the first sentence of section 4 (a) delete the date "June 30, 1958" and in lieu thereof substitute the date "December 31, 1958" so that said first sentence reads as follows: "Any producer of ores or any operator of a manganese milling plant desiring to participate in the program shall apply in writing on or before December 31, 1958, to the nearest General Services Administration regional office for a certificate of participation."

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. 2154. Interpret or apply sec. 303, 64 Stat. 801, as amended; 50 U. S. C. App. 2093)

All other provisions of said regulation, as revised and amended, shall remain in full force and effect.

This amendment shall be effective upon publication in the FEDERAL REGISTER.

Dated: September 17, 1958.

EDWARD K. MILLS, Jr.,
Acting Administrator of
General Services.

[F. R. Doc. 58–7757; Filed, Sept. 22, 1958; 8:52 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART C—WAR ORPHANS' EDUCATIONAL ASSISTANCE ACT OF 1956

MISCELLANEOUS AMENDMENTS

1. In § 21.3051, paragraph (a) is amended to read as follows:

§ 21.3051 *Conditions governing payment of educational assistance allowance.* (a) The educational assistance allowance shall be paid to the guardian of the eligible person; to the person recognized as legal custodian pursuant to section 1502, Public Law 85–56, and § 13.207 of this chapter; to the eligible person himself if he has attained his majority and has no known legal disability; or to the person so designated under paragraph (c) of this section.

(1) The minority of a person who has been discharged from the Armed Forces will not preclude direct payment of educational assistance allowance to such person (sec. 1502, Public Law 85–56).

(Sec. 1502, 71 Stat. 136; 38 U. S. C. 3502)

2. In § 21.3054, that portion of paragraph (b) preceding subparagraph (1), and paragraph (b) (2) are amended to read as follows:

§ 21.3054 *Effective beginning dates of entrance or reentrance into training and for payment of educational assistance allowance.* * * *

(b) Except as provided in subparagraph (3) of this paragraph, the effective beginning date for the payment of educational assistance allowance upon original entrance into training will be the date of receipt of application, date of commencement of the course as certified by the institution on VA Form VB 7–5499, or the effective date of approval of the course by the appropriate approving agency or by the Veterans Administration, whichever is later. The effective date of the approval of the course by the appropriate approving agency shall be the effective date specified by the approving agency in its notice of approval, if such notice of approval is received by the Veterans Administration not later than 60 days after the effective date specified therein by the State approving agency. Where the notice of approval is not received by the Veterans Administration within 60 days from the effective date set forth in the notice of approval, the effective date of approval for the purpose of this paragraph shall be as of the date 60 days prior to the date notice of approval is received by the Veterans Administration. However, where counseling is delayed by an eligible person for 12 or more months, for other than a reason beyond his control, he will be considered as having abandoned his application for benefits under Public Law 634, 84th Congress. Should he at a later date report for and promptly complete counseling, his application will be considered reopened. Under these conditions the effective beginning date for payment of educational assistance allowance will be the date of reopening, i. e., the date he reports for counseling, if otherwise in order.

* * * * *

(2) Except as provided in subparagraph (3) of this paragraph, the effective beginning date for payment of educational assistance allowance upon approved reentrance into training which involves a change of program or a change of institution will be the date of commencement or recommencement of the course as certified by the institution on VA Form VB 7–5499, or the date the eligible person's request (concurred in by his guardian or legal custodian) for such change was received by the Veterans Administration, whichever is later. However, where counseling is delayed by an eligible person for 12 or more months, for other than a reason beyond his control, he will be considered as having abandoned his application for a change of program or change of institution. Should he at a later date report for and promptly complete counseling, his application for a change of program or change of institution will be considered reopened. Under these conditions the effective date for resumption of educational assistance allowance will be the date of reopening, i. e., the date he reports for counseling, if otherwise in order.

(Sec. 210, 71 Stat. 91; 38 U. S. C. 2210. Interpret or apply secs. 101, 102, 201–205, 301–313, 401–404, 501–509, 512, 70 Stat. 411–422, as amended; 38 U. S. C. 1031–1041, 1044, 1051–1055, 1061–1073, 1081–1084)

This regulation is effective September 23, 1958.

[SEAL] ROBERT J. LAMPHERE,
Acting Deputy Administrator.

[F. R. Doc. 58–7755; Filed, Sept. 22, 1958; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1731]

[Juneau 010160]

ALASKA

RESERVING LANDS WITHIN NATIONAL FORESTS FOR USE OF FOREST SERVICE AS RECREATION AREAS AND ADMINISTRATIVE SITES

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

Subject to valid existing rights, the following-described public lands within the national forests hereinafter designated are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601–604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as recreation areas and administrative sites:

CHUGACH NATIONAL FOREST

TRAIL RIVER–KENAI RECREATION AREA

Beginning at a point on the line of mean high water on the north shore of Kenai Lake, from which corner 2, lot A, United States Survey No. 2520 bears N. 83° E., approximately 45.75 chains, thence

North, 24.00 chains;
N. 66° E., 41.75 chains to mean high water on west shore Trail River;
Southerly, along west shore Trail River to shore Kenai Lake;
Westerly, along line of mean high water Kenai Lake to point of beginning.

The tract described contains 141 acres.

MILE 38 JUNCTION–SEWARD–ANCHORAGE HIGHWAY

All land within 400 feet of the center line of the Seward–Anchorage Highway between BPR Highway Station 410+90 and Station 423+71.6 Section B–2 and all land within 400 feet of the center line of the Kenai River Highway between the BPR Station 450+90.2 Project 5–B2 to the above two said stations on the Seward–Anchorage Highway, in approximate Latitude 60°32′ N., Longitude 149°33′ W., thus forming a triangle junction of the two highways and known as Mile 38 Junction and located approximately 38 miles from Seward, Alaska, containing an area of approximately 130 acres.

The tract described contains 130 acres.

UPPER TRAIL LAKE RECREATION AREA (TRACT C)

Beginning at a point on the line of mean high water on the south shore of Upper Trail Lake, due north of BPR Station No. 162—Seward–Anchorage Highway, Section A2, B3, approximate Latitude 60°32′ N., Longitude 149°33′ W., thence

Southeasterly, 58.00 chains, approximately, along line of mean high water of Upper Trail Lake to a point due north of BPR Station No. 130, Section A2, B3, Seward–Anchorage Highway;
South, 11.50 chains;
West, 43.50 chains;
North, 25.00 chains to point of beginning.

The tract described contains approximately 75 acres.

TONGASS NATIONAL FOREST

MILL CREEK INDUSTRIAL AREA

Beginning at U. S. C. & G. Station "Virgin" located at Mill Creek on the east shore of Eastern Passage, thence

East, ¼ mile;
North, 1½ miles;
West, 1 mile to U. S. C. & G. Station "Mill";
Southerly, along line of mean high tide of Eastern Passage to point of beginning.

The tract described contains approximately 336 acres.

The tracts total in the aggregate approximately 682 acres.

This order shall be subject to existing withdrawals for power purposes so far as they affect any of the above-described lands, and shall take precedence over, but not otherwise affect the existing reservation of the lands for national forest purposes.

FRED G. AANDAHL,
Acting Secretary of the Interior.

SEPTEMBER 17, 1958.

[F. R. Doc. 58–7724; Filed, Sept. 22, 1958; 8:45 a. m.]

[Public Land Order 1732]

[Fairbanks 014424]

ALASKA

RESERVING LANDS AT NORTHWAY JUNCTION FOR USE OF BUREAU OF LAND MANAGEMENT AS AN ADMINISTRATIVE SITE; PARTIALLY REVOKING PUBLIC LAND ORDER NO. 386 OF JULY 31, 1947

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:

1. Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation, including the mining but not the mineral-leasing laws, nor disposals under the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601–604) as amended, and reserved for use of the Bureau of Land Management, Department of the Interior, as an administrative site:

NORTHWAY JUNCTION

A parcel of land situated on the southerly side of the Alaska Highway and easterly side of the Northway Road in the immediate vicinity of their junction at approximate latitude 63°00'54" N., longitude 141°47'00" W., more particularly described as follows:

Beginning at a point identical to Corner No. 4, of U. S. Survey No. 2781; thence

N. 54°57' W., 1.50 chains to a point on the centerline of Northway Road;
N. 33°03' E., 15.57 chains along said centerline to a point on the centerline of the Alaska Highway;
S. 54°57' E., 10.00 chains along said centerline;
S. 35°03' W., 15.57 chains;
N. 54°57' W., 3.40 chains to Corner No. 3 of U. S. Survey No. 2781;
N. 54°57' W., 5.10 chains along Line 3–4 of U. S. Survey No. 2781 to the point of beginning.

The tract described contains 15.57 acres.

2. Public Land Order No. 386 of July 31, 1947, is hereby revoked so far as it affects any of the lands described in paragraph 1 of this order.

FRED G. AANDAHL,
Acting Secretary of the Interior.

SEPTEMBER 17, 1958.

[F. R. Doc. 58-7725; Filed, Sept. 22, 1958; 8:45 a. m.]

[Public Land Order 1733]

[716554]

MICHIGAN

REVOKING EXECUTIVE ORDER NO. 2638 OF JUNE 12, 1917, WHICH RESERVED LITTLE LIME ISLAND FOR LIGHTHOUSE PURPOSES

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:

1. Executive Order No. 2638 of June 12, 1917, which reserved the following-described public lands in Michigan for lighthouse purposes, is hereby revoked:

MICHIGAN MERIDIAN

T. 42 N., R. 6 E.,
Sec. 6, Little Lime Island, Unsurveyed.

The island is located in the Straits of St. Mary, South of Lime Island, and is estimated to contain approximately 13 acres.

2. The lands will not be open to further disposition under the public land laws, unless and until, after survey, a notice is issued by an authorized officer of the Bureau of Land Management, of the filing of an official plat of survey, which notice shall specify the time and manner for filing of applications.

FRED G. AANDAHL,
Acting Secretary of the Interior.

SEPTEMBER 17, 1958.

[F. R. Doc. 58-7726; Filed, Sept. 22, 1958; 8:46 a. m.]

[Public Land Order 1734]

[77731]

WASHINGTON

POWER SITE RESTORATION NO. 537; PARTLY REVOKING EXECUTIVE ORDERS OF JULY 2, 1910 AND JUNE 30, 1916, WHICH CREATED POWER SITE RESERVES NOS. 74 AND 534, RESPECTIVELY; OPENING CERTAIN LANDS WITHIN OTHER EXISTING POWER WITHDRAWALS

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive Orders of July 2, 1910 and June 30, 1916, creating Power Site Reserves No. 74 and No. 534, respectively, are hereby revoked, so far as they affect the following-described lands:

WILLAMETTE MERIDIAN

POWER SITE RESERVE NO. 74

T. 7 N., R. 5 E.,
Sec. 30, lot 9.
T. 7 N., R. 6 E.,
Sec. 23, NE¼ and NE¼SE¼.

POWER SITE RESERVE NO. 534

T. 33 N., R. 10 E.,
Sec. 4, lots 6, 7, E½SW¼, and W½SE¼;
Sec. 9, SW¼SW¼;
Sec. 10, lot 9.

The areas described aggregate 550 acres.

2. An order of the Director of the Geological Survey of November 19, 1957 (22 F. R. 9437), cancelled Power Site Classifications Nos. 75, 126, 156, and 207, so far as they affect the following-described lands:

WILLAMETTE MERIDIAN

T. 37 N., R. 5 E.,
Sec. 21, lots 2 and 7.
T. 40 N., R. 6 E.,
Sec. 28.
T. 3 N., R. 7 E.,
Sec. 1, lot 2.
T. 12 N., R. 8 E.,
Sec. 10, N½SE¼.
T. 33 N., R. 10 E.,
Sec. 20, lot 9;
Sec. 22, lot 2.

Totalling 195 acres.

3. In DA–134–Washington, issued June 8, 1956, the Federal Power Commission vacated the existing power withdrawal created by the filing of an application for preliminary permit on November 14, 1921, for Power Project No. 264, affecting the following-described lands:

WILLAMETTE MERIDIAN

T. 7 N., R. 5 E.,
Sec. 30, lots 1, 2, 9, NW¼NE¼, and NE¼NW¼.
T. 7 N., R. 6 E.,
Sec. 23, NE¼ and NE¼SE¼.

The areas described aggregate 389.92 acres.

4. In DA–134–Washington, the Federal Power Commission made a favorable determination under section 24 of the Federal Power Act respecting the following-described lands:

WILLAMETTE MERIDIAN

POWER PROJECTS NOS. 2071 AND 2111

T. 7 N., R. 4 E.,
Sec. 34, E½SE¼.
T. 7 N., R. 5 E.,
Sec. 26, lot 7.
T. 7 N., R. 6 E.,
Sec. 26, lots 4, 7, and 8.

The areas described aggregate 228.65 acres.

5. The lands described in this order are timber lands lying in western Washington. Topography for the most part is rough and mountainous, and the soil is a shallow, rocky clay loam.

6. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

7. Subject to any valid existing rights, and the requirements of applicable law, the lands described in this order are hereby opened to filing of applications, selections and locations, in accordance with the following, the lands described in paragraph 4, however, being opened subject to the provisions of section 24 of the Federal Power Act, and subject to the prior right of the United States, its licensees or permittees, to use for power purposes those portions of the lands within the project boundary of Project No. 2071, as shown on map designated Exhibit "K"–7 (Federal Power Commission No. 2071–28), and the project boundary of Project No. 2111, as shown on the map designated Exhibit "K" (Federal Power Commission No. 2111–12) and both filed in the Office of the Federal Power Commission:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in

support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284, as amended), presented prior to 10:00 a. m. on October 23, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on January 22, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on January 22, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

8. The lands have been open to applications and offers under the mineral leasing laws, and, excepting those described in paragraph 4, which are within the boundaries of licensed Project No. 2071 and proposed Project No. 2111, to location under the United States mining laws pursuant to the act of August 11, 1955 (69 Stat. 682; 30 U. S. C. 621, et seq.).

9. All the lands described in this order shall be subject until 10:00 a. m. on December 18, 1958, to application by the State of Washington under any statute or regulation applicable thereto, for rights-of-way for public highways, or as a source of material for the construction and maintenance of such highways, pursuant to section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818) as amended.

10. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Spokane, Washington.

FRED G. AANDAHL,
Acting Secretary of the Interior.

SEPTEMBER 17, 1958.

[F. R. Doc. 58-7727; Filed, Sept. 22, 1958; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 24]

TYDEN AND AUTOMATIC METAL SEALS

NOTICE OF PROPOSED INCREASE IN PRICE

Notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003), that, under the authority of title V, section 501 of the Act of August 31, 1951 (5 U. S. C. 140), it is proposed to amend § 24.13 (e) of the Customs Regulations to increase the charge for in-bond and in-transit seals sold by collectors of customs.

The purpose of the proposed amendment is to recover the cost to customs, including the contract purchase price, shipping costs, storage, distribution, sale, accounting, and other overhead costs covering Tyden and automatic metal seals issued and sold by collectors of customs for emergency use by common carriers and other authorized users of such seals, the price to be paid to collectors of customs to be increased from 5 cents to 10 cents per seal, with a minimum order to consist of 10 seals for $1. The terms of the proposed amendment, in tentative form, are as follows:

The last sentence of paragraph (e) of § 24.13, is amended to read as follows: "In-bound and in-transit seals sold by collectors of customs shall be charged for at the rate of 10 cents per seal, with a minimum order to consist of 10 seals for $1."

Prior to the final adoption of such amendment, consideration will be given to any relevant data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., and received not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: September 16, 1958.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F. R. Doc. 58-7750; Filed, Sept. 22, 1958; 8:50 a. m.]

POST OFFICE DEPARTMENT

[39 CFR Part 15]

MATTER MAILABLE UNDER SPECIAL RULES

CONCEALABLE FIREARMS

Section 1715 of Title 18, United States Code, declares pistols, revolvers, and other firearms capable of being concealed on the person, to be nonmailable, with exceptions in favor of bona fide dealers in firearms, manufacturers, officers of the Armed Forces, and other persons. The law gives authority to the Postmaster General to prescribe regulations governing permissible shipments of firearms. The Departmental regulations are contained in § 15.5 of Title 39, Code of Federal Regulations.

Various chief legal officers of the Department have taken the view that it would frustrate the legislative intent of the law to hold a pistol to be mailable solely because it uses a propellent other than gunpowder. In the Postal Bulletin of June 12, 1951, and again in the Postal Bulletin of February 23, 1954, the chief legal officer of the Department caused to be published instructions to the effect that gas and air pistols are within the purview of the law in 18 U. S. C. 1715.

It is proposed to amend the regulations contained in § 15.5 of Title 39, Code of Federal Regulations, to bring such interpretive rulings within the scope of the regulations by making them applicable to gas, air, and spring-action pistols.

The proposed amendment relates to a proprietary function of the Government. It also is in a nature of an interpretive ruling. Accordingly, this amendment is exempted from the rule making requirements of the Administrative Procedure Act (5 U. S. C. 1003). However, the Postmaster General desires voluntarily to give postal patrons an opportunity to present their written views concerning the proposed regulations. Accordingly, the final regulations to be adopted by the Department will be considered in the light of such views which may be received.

Comments may be submitted to Richard S. Farr, Acting Assistant General Counsel, Room 5226, Post Office Department, Washington 25, D. C., at any time prior to November 1, 1958.

The proposed amendment is as follows:

In Part 15—Matter Mailable Under Special Rules, amend § 15.5 *Concealable firearms* by the addition of a new paragraph (h) to read as follows:

(h) *Gas, air, spring-action pistols.* Gas and air pistols, as well as those which operate solely by a spring action, are regarded as firearms and their mailing must comply with the requirements of this section.

NOTE: The corresponding Postal Manual section is 125.5.

(R. S. 161, as amended, 396, as amended, sec. 1, 62 Stat. 781, as amended; 5 U. S. C. 22, 369, 18 U. S. C. 1715)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F. R. Doc. 58-7776; Filed, Sept. 22, 1958; 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1014]

[Docket No. AO-304]

HANDLING OF MILK IN MISSISSIPPI GULF COAST MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Mississippi Gulf Coast marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Gulfport, Mississippi, on April 15–18, 1958, pursuant to notice thereof which was issued March 25, 1958 (23 F. R. 2073).

The material issues of record relate to:

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

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

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

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions—1. *Character of commerce.* All milk to be regulated by the proposed marketing agreement and order is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

There is regular interstate commerce in the distribution of milk. One distributor whose plant is located just outside Mobile, Alabama, distributes approximately half of the total quantity of milk sold in Pascagoula and other portions of Jackson County. Another handler makes regular distribution of milk in several Gulf Coast cities from a plant located in New Orleans, Louisiana. Also, distributors from outside Mississippi frequently bid on the contract for Keesler Air Force Base at Biloxi. At the time of the hearing, the major part of the Keesler Field contract was supplied by a distributor whose plant is located at Pensacola, Florida. Within recent years part of the contract has also been held by a Shreveport, Louisiana, handler and by the previously mentioned Mobile handler.

The procurement of milk is also interstate in character. A plant located at Picayune, Mississippi, from which milk is distributed in the marketing area obtains its entire supply of milk from a receiving station operated by the Louisiana-Mississippi Milk Producers Association at Poplarville, Mississippi. The Poplarville station receives milk from farms located both in Mississippi and Louisiana and at the time of the hearing was serving primarily as a receiving station for the New Orleans market. It was a fully regulated pool plant under the New Orleans milk marketing order. There is also considerable overlapping of milksheds between the Gulf Coast and the Central Mississippi Federal order market. The Central Mississippi market, in turn, is directly involved in interstate commerce. Several Central Mississippi handlers, regulated under that order, not only procure milk in direct competition with Gulf Coast handlers but also distribute milk in the Gulf Coast area.

Producers for the Mississippi Gulf Coast market supply milk primarily for fluid use. However, there is necessarily some reserve for daily and seasonal variations in sales and production. This reserve milk is commonly manufactured into such storable dairy products as butter, nonfat dry milk, and cheese which compete directly with similar products which are marketed nationally. At times such reserve milk from the Gulf Coast market has been moved in fluid form to a plant in Louisiana for manufacture.

2. *Need for an order.* The issuance of a marketing agreement or order will tend to effectuate the declared policy of the Act.

Stability of marketing conditions, together with a reasonable certainty of an adequate supply of pure and wholesome milk, can be assured for the Gulf Coast marketing area by providing for equal costs of milk according to use for each handler distributing milk in the area or supplying milk to such distributors and by providing for all farmers to share equally in proceeds from the sale of their milk to these handlers. These conditions do not now exist.

Producers supplying milk to plants which would qualify as pool plants hereunder are represented by three cooperative associations. Two of these associations have had very little success in bargaining with the distributors with respect to prices to be paid for their milk, the quantities used in each class, the checking of weights and butterfat tests, or the furnishing of essential market information. The other cooperative has had somewhat greater success in these matters because it operates a receiving station at which the milk is received from members and transferred in bulk to the bottling plant of the distributor.

Some of the producers supplying several of the local plants belong to the Mississippi Milk Producers Association. For a period of several months, one of the handlers at Biloxi was subject to the Central Mississippi order. During that time the Mississippi Milk Producers Association performed marketing services for its members supplying this plant. When the plant was no longer subject to the order, the Association was unable to continue representing its producers with respect to marketing services or price bargaining. At the time of the hearing the Association performed no marketing services for its members at this or the other plants which would be subject to a Gulf Coast order.

Other producers serving the local plants belong to the Gulf Coast Dairymen's Association. This Association has also been unsuccessful in its efforts to perform marketing services for its members, to bargain for price, or to obtain check-off of association dues.

The third cooperative association of producers is the Louisiana-Mississippi Milk Producers Association. It owns and operates a receiving station at Poplarville, Mississippi, and at the time of the hearing this plant was qualified as a pool plant under the New Orleans order. The association ships a full supply of milk by bulk tank to the Picayune, Mississippi, plant of the Brown's Velvet Dairy Products, Inc. Under such an arrangement, this association obviously has substantial influence on the marketing of its members' milk. It can effectively represent them in bargaining for prices and has complete control over the weighing and testing of member milk, payments to producers and providing of marketing information.

The Gulf Coast area lacks a complete system of classifying and pricing milk in accordance with the use made of it by distributors. A partial program of classification and pricing is carried out under the State of Mississippi Milk Audit Law. However, this program is limited in several important respects, including the fact that it provides for an announcement of minimum class prices to be paid to producers by handlers but does not specify such minimum prices, does not apply to milk originating outside the State, and provides market information only for the State as a whole rather than for the several marketing areas within the State.

A retail price war between distributors was developing in the Gulf Coast area while the hearing was in progress. In this particular instance the price competition did not originate from a reduction in prices paid for milk to producers since the distributors who were most aggressively reducing prices were fully subject to Federal orders in the Central Mississippi and New Orleans markets. However, one of the means available to local distributors in meeting the competition created by lower retail prices was to reduce the prices paid to the local dairy

farmers. Obviously, if the Gulf Coast dealers were required by a Federal order to pay specified minimum prices to producers for milk used in each class, any reduction they might make in retail and wholesale prices would have to be financed from their own operating margins rather than by any reduction in prices paid to dairy farmers.

A second instance of price instability involves the contracts to supply milk to Keesler Air Force Base at Biloxi. Contracts for the mess hall and commissaries at the base are let quarterly. Commissary privileges are extended not only to military personnel but to civilian employees at the base. Some of the handlers who would be regulated under the proposed order regularly submit bids for these contracts and have frequently obtained one or both contracts in the past. At the time of the hearing, however, the contracts were held by the operator of a plant located at Pensacola, Florida. The prices paid to dairy farmers for milk to supply this contract were well below the competitive level of prices paid for milk for bottling purposes. It appears highly probable that the milk used to supply the contract was a seasonal surplus of Grade A milk which would otherwise have had to be utilized for manufacturing purposes and did not represent a supply which would be available on a regular basis for this market.

The lack of a complete system of classified pricing and the inability of producers to achieve orderly marketing conditions through cooperative association activities clearly demonstrate the need for a Federal order to establish and maintain orderly marketing conditions throughout the Gulf Coast marketing area. In addition to the essential pricing and pooling functions of an order, the audit of records and receipts of utilization of milk, the checking of butterfat tests and weights of milk and the publication of the current marketwide information will contribute greatly to the achievement of this objective in this market.

3. *Order provisions*—(a) *Scope of regulation.* Federal milk orders achieve marketing and pricing stability by using techniques authorized by the Agricultural Marketing Agreement Act of 1937, as amended. Important among these techniques are the requirements that (1) regulated distributors (handlers) pay at least specified minimum prices to producers in accordance with a classified use plan established in an order, and (2) these payments are distributed to each producer on a uniform basis through either an individual-handler pool, or a marketwide pool. Under the circumstances it is important to establish clearly which plants and which milk will be subject to all or part of the pricing provisions of the orders and, in turn, which producers will participate in the distribution of returns through the equalization pool. To identify such persons and to facilitate reference to them throughout this decision and in the proposed orders, such terms as marketing area, producer, types of milk plants, handler, producer milk, and other source milk are defined and are used herein.

Marketing area. The Mississippi Gulf Coast marketing area should include all the territory within the outer boundaries of Jackson, Harrison, Hancock, George, Stone, Pearl River, and Greene Counties in Mississippi. This territory comprises a contiguous area within which there is such competition in the sale and procurement of milk as to constitute a distinct marketing area to which a single system of pricing is applicable.

This seven-county marketing area constitutes the block of territoy bordering the Gulf Coast and extending north to the southern boundary of the Central Mississippi milk marketing area, except that Beat 2 of Lamar County is not included in the Central Mississippi area and was not proposed for inclusion in the Gulf Coast market. The major cities in the area are Biloxi, Gulfport, and Pascagoula, all of which are located on the Gulf. The total population in the proposed area is just over 200,000.

The area is served mainly by six local handlers. One distributing plant is located at Picayune, one at Gulfport, two at Biloxi, one at Pascagoula and one in Lucedale. Several of these distributors sell throughout most of the defined area and only one of them has any significant volume of sales outside the defined area. In this respect these counties form an unusually homogeneous market. This group of handlers receives approximately 4 million pounds of milk per month from about 500 producers.

The sanitary requirements relative to the production, processing and sale of milk are uniform throughout the area. The State of Mississippi standards are effective throughout the territory and are uniformly applied in all the jurisdictions. The extensive overlapping of sales territories by the plants located in the market and the acceptance of milk of comparable sanitary standards from plants located outside the area demonstrate the uniformity of these standards.

Although the local handlers sell very little milk outside the area, several outside handlers have distribution in the Gulf Coast. Some handlers whose plants are regulated under the Central Mississippi order sell comparatively small volumes of milk in the Gulf Coast area. Milk is also sold in several Gulf Coast locations by a distributor regulated under the New Orleans order.

The major competition from outside sources is provided by the Dairy Fresh Corporation operating a distributing plant at Pritchard, Alabama, just north of Mobile. This handler has extensive Class I sales in Pascagoula and throughout Jackson County. At various times he has also had part of the contract to supply milk to Keesler Air Force Base, near Biloxi in Harrison County. His primary sales territory is the city of Mobile, Alabama, and surrounding areas. His principal source of milk supply is a receiving station located at Greensboro, Alabama. The milk purchased there from dairy farmers is subject to the regulations of the Alabama Milk Control Board.

The Dairy Fresh Corporation proposed that Jackson County, Mississippi, be eliminated from the proposed marketing area. This handler has steadily increased his volume of sales in Jackson County since World War II. The record evidence is conflicting as to the proportion of Class I sales in Jackson County made by this handler but it is apparent that he does approximately half of the total Class I business.

Jackson County is an important outlet for the milk of proponent producers. Gulf Coast handlers still supply approximately one-half of the fluid sales in the county. One of them does the major portion of his business in the county. Accordingly, it is concluded that Jackson County should be included in the Mississippi Gulf Coast marketing area.

It is intended that the sales of fluid milk from piers, docks and wharves and to crafts moored thereat be included as sales in the marketing area. It is also intended that the area include all of the territory occupied by Government reservations, institutions or other such establishments whether municipal, State or Federal, if they lie within the limits of the area as defined. The quality requirements for milk for such outlets are similar to those for milk sold in other parts of the marketing area. These installations, by location, represent logical areas of distribution for handlers who would become regulated under the proposed order or for regulated handlers under adjacent Federal orders. Unless they are included, regulated handlers will be placed at a serious disadvantage in competing with unregulated handlers for such sales. The inclusion of these areas will assure as between handlers uniform minimum cost of milk received from producers.

Definitions. The term "route" is used in the definition of distributing plant and pool plant to cover a number of types of distributing operations in which handlers may engage in the proposed marketing area. "Route" should be defined as a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product, other than a delivery to any milk processing plant.

The definition of a pool plant should be such as to determine which plants will be subject to pool regulation and which dairy farmers will be considered as producers and their milk included in the determination of a marketwide uniform price. Pool plant standards are needed because some of the plants involved in supplying milk to Gulf Coast area consumers are also involved in other areas. The pool plants should be those whose operations are identified in a substantial way with the Gulf Coast market and who are not more substantially associated with some other Federal milk marketing area.

Milk handling plants may conveniently be classified in two major groups according to the functions they perform. One consists of the distributing plants at which milk is processed, bottled, and distributed on routes in the marketing area. The second category of plants is those at which milk is received from dairy farmers, cooled, and combined into tank truck loads for shipment to the bottling plants. These

plants are commonly referred to as supply plants. The order should include specific definitions of each of these two types of plants, preliminary to the subsequent definition of pool plants.

A "distributing plant" should be defined as a plant at which fluid milk products, conforming to the Grade A sanitation requirements of any duly constituted health authority having jurisdiction in the marketing area, are processed and packaged and from which fluid milk products are disposed of on a route(s) in the marketing area.

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

A "pool plant" should be specifically defined as (1) a distributing plant from which 20 percent or more of the total receipts of Grade A milk is distributed as fluid milk products on routes in the marketing area and 50 percent or more on routes either within or outside the marketing area, or (2) a supply plant from which 50 percent or more of the milk received from dairy farmers in any given month is shipped to distributing plants which qualify as pool plants. It should also be provided that if a supply plant qualifies as a pool plant during each of the low production months of September through January, it should be able to retain pool plant status during the following flush months of February through August without making additional shipments.

The requirement that at least 20 percent of the total supply at a distributing plant be sold as fluid milk products within the marketing area is an appropriate standard for designating such plants as pool plants. Any plant with a lower proportion of its business in the marketing area would be primarily identified with some other market. It would be inequitable to require that such a plant pay the Gulf Coast class prices on its entire sales or that the producers supplying such plant be included in the Gulf Coast utilization pool. Such a plant should, however, be subject to partial regulation with respect to the volume sold in the marketing area, as hereinafter described.

The requirement that at least half of the total supply at a distributing plant be distributed on routes in the form of fluid milk products is necessary to distinguish between plants which are primarily identified with the market as distributing plants and those which are primarily engaged in supply plant and milk manufacturing operations. All of the plants presently associated with the market as distributing plants utilize nearly their entire supply of milk for fluid purposes, do not supply significant quantities of milk to other plants, and have only limited facilities for the processing of milk into manufactured products.

With respect to supply plants, the requirement that at least 50 percent of the milk received from dairy farmers be shipped to Gulf Coast distributing plants demonstrates a primary association with this market and is an appropriate pool plant standard. The demand for milk from supply plants is commonly greatest during the fall and winter months of lowest production. On the other hand, during the flush production months, the demand on supply plants is normally lowest, and the milk is either manufactured in the supply plant or shipped to manufacturing plants instead of being shipped to the distributing plants. Accordingly, any supply plant which qualifies as a pool plant during the five low-production months of September through January is, in fact, an integral part of the market supply of milk for fluid purposes. Such plant and producers shipping thereto should therefore remain pooled during the subsequent flush production season regardless of the proportion of milk actually shipped to distributing plants unless the operator specifically requests nonpool status.

A "handler" should be defined as (1) any person in his capacity as the operator of a pool plant(s), (2) the operator of a nonpool distributing plant with route distribution in the marketing area, or (3) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant.

The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and payment thereof, with certain exceptions noted below. A cooperative association which markets the milk of its producer members may for short periods of time need to divert producers' milk from pool plants to nonpool plants. If the association is defined as a handler for such milk, even though it has no plant, the producers whose milk is so diverted should continue to receive the uniform price under the order until their milk will be needed for fluid use.

"Producer-handler" should be defined as any person who operates both a dairy farm and a distributing plant and who receives no milk from other dairy farmers or nonpool plants. The order is not intended to establish minimum prices for such operators, but they should be required to make reports to the market administrator. Such reports are necessary to determine whether the operator is a producer-handler.

The limitations of the proposed producer-handler definition would remove any cost advantage that a producer-handler might gain over a pool handler through the purchase of supplemental milk. By limiting the supply of a producer-handler to his own production and receipts from pool plants, he could not receive unpriced milk and retain his producer-handler status. He must, therefore, purchase his supplemental needs from pool plants and such milk would be priced as Class I.

At the hearing, consideration was given to a quantity limitation on the Class I sales of a producer-handler. At present, however, only two small-scale producer-handlers are serving the market. Moreover, the principal objective sought by the quantity limitation would be achieved by limiting producer dealers to their own production and purchases from pool plants.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred from a pool plant to the plant of a producer-handler will be Class I milk. Any supplemental supplies of milk which may be obtained from pool plants may, by virtue of the type of operation involved, be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producer-handler may receive milk from pool plants and still maintain his status as a producer-handler. Pursuant to the attached order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the pool plant of a handler after the allocation of shrinkage on producer milk.

"Producer" should be defined as a person, other than a producer-handler, who produces Grade A milk, in conformity with the sanitation requirements issued by a duly constituted health authority, for consumption in the marketing area as a fluid milk product and whose milk is received at a pool plant. It should also include a person whose milk is diverted from a pool plant by a handler, including a cooperative association, to a nonpool plant for the handler's account. Such milk should be deemed to have been received at the location of the pool plant from which diverted. In order to distinguish between milk which may be temporarily diverted and that which has become disassociated from the Gulf Coast market, some limitation on the length of time that milk may be diverted and still be considered as producer milk under the order is desirable. Based on the conditions in the market, it is concluded that milk of a dairy farmer which is diverted to a nonpool plant in excess of 10 days' production during the normally low production months of September through January should not be considered as producer milk under the order. Milk of a dairy farmer which is moved to a nonpool plant in a quantity that exceeds 10 days' production during any of the months September through January when the regulated plants are in greatest need of milk, is not sufficiently associated with this market to be priced and pooled with other producer milk. Unlimited diversion of milk during the flush months of February through August will facilitate the economical disposal of seasonal reserve supplies. Such provisions will permit milk regularly associated with the market to be diverted to manufacturing plants during periods of seasonal flush production and over weekends and holidays when supply and demand relationships may require some reserve to be manufactured in plants not regulated by the order. The diversion provisions will facilitate interplant movements of milk for the purpose of short time adjustments of supply and demand without depriving dairy farmers producing the regular supply for the market of their status as producers.

"Other source milk" should be defined to include all skim milk and butterfat contained in fluid milk products received

by a handler at his plant(s), except producer milk and fluid milk products received from other pool plants. Any receipts from a producer-handler would be other source milk since such a person is neither producer nor the operator of a pool plant. This definition would also include milk products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed and converted to another product in the plant during the month. Supplemental supplies of other source milk from nonpool plants are occasionally needed and the amounts needed vary from season to season and between handlers.

"Fluid milk product" is specifically defined in the order because of frequent references to this group of items. The fluid milk products are those which constitute Class I use and should be defined as all the skim milk (including concentrated and reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks or concentrated milk (not sterilized or in hermetically sealed containers), eggnog, yogurt, cream (sweet or sour), and any fluid mixture of cream and milk or skim milk (except aerated cream, ice cream mix, and frozen dessert mix).

(b) *The classification and allocation of milk.* Milk should be classified in two classes reflecting the principal differences in the value of milk used for different purposes. Class I should include all skim milk and butterfat disposed of for consumption as a fluid milk product and Class II should include the manufacturing uses.

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

The fluid milk products which are included in Class I are those distributed to consumers in fluid form and required by the health authorities having jurisdiction in the marketing area to be obtained from milk or milk products from Grade A sources. The extra cost of Grade A quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used as Class I somewhat higher than for milk used for manufacturing purposes. It is appropriate that all of the products required to be from Grade A milk be included in a single class so that all milk required to make such products may contribute uniformly to the cost of supplying the market needs for Grade A milk. Plant loss of producer skim milk and butterfat in excess of 2 percent and skim milk and butterfat not accounted for as Class II should also be classified as Class I.

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

Class II should therefore include skim milk and butterfat used to produce any product other than a fluid milk product, including but not limited to such products as ice cream, ice cream mix, ice milk, frozen desserts and mixes, frozen cream, aerated cream, dried milk products, whole and nonfat, condensed or evaporated products, butter, cottage cheese and hard cheese. Class II should also include plant loss of other source milk, actual plant loss on producer milk not in excess of 2 percent, all skim milk dumped or accounted for as disposed of for livestock feed, and inventories of fluid milk products on hand at the end of any month. Cream which is frozen and placed in storage should be Class II since such cream is intended primarily for use in ice cream or ice cream mix. Any frozen cream or other Class II products which may be used later in a fluid milk product would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

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

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

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

The allocation of inventory to Class I which is in excess of the producer milk classified as Class II in the preceding month should be subject to the same rate of compensatory payment as a current receipt of other source milk.

Unaccounted for milk in excess of a reasonable allowance for plant loss should be Class I so as to require full accounting by handlers for their receipts. Two percent is considered a reasonable maximum allowance for plant loss. No limit need be put on shrinkage of other source milk since such milk is deducted from the lowest use class under the allocation procedures. Since it is not feasible to segregate shrinkage of producer milk from that of other source milk in the same plant, total shrinkage is prorated on the basis of the volume of receipts. Allowance for loss on producer milk diverted to another pool plant should be at the pool plant where actually received. When milk is moved in bulk from one pool plant to another pool plant the loss on producer milk should be prorated at the rate of 0.5 percent to the shipping plant and 1.5 percent to the receiving plant to reflect the greater losses in the bottling operation. Each handler must be held responsible for full accouuting of all his receipts of skim milk or butterfat in any form. The handler who first receives the milk from producers should be responsible for establishing the classification of and the payment for producer milk. Except for such limited quantities of shrinkage as may be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

Transfers of milk between plants. Classification of butterfat and skim milk used in the production of Class II items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, since some Class I items may be disposed of to other milk plants for processing, separate classification procedure should be prescribed for transfers to other plants.

Milk, skim milk, cream or other fluid milk products transferred by a handler to the pool plant of another handler should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk, as described below. On the other hand, if the transferring handler had other source milk during the month, the assignment of products

transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while at the same time producer milk is allocated to Class II milk in the transferee handler's plant.

Milk, skim milk or cream transferred or diverted from Mississippi Gulf Coast pool plants to nonpool plants should be classified as Class I to the extent that the receipts from regulated plants under this order or any other order exceeds the Class II usage in the nonpool plant. In the event fluid milk products are received at a nonpool plant from more than one plant regulated by a Federal order, any skim milk or butterfat classified as Class I at such a nonpool plant should be shared pro rata between pool plants of this and other orders. In order to substantiate a Class II classification the nonpool plant must have and make available records adequate to verify any Class II utilization claimed.

There was no evidence indicating that the Mississippi Gulf Coast market carries milk supplies for other markets and therefore producers have no claims of priority to Class I sales in other markets resulting from transfers from pool plants to nonpool plants in such markets. Accordingly, only ungraded supplies at the nonpool plant are assigned to Class II uses before the milk transferred from a Gulf Coast pool plant is assigned.

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

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

(1) Class II shrinkage of producer milk;

(2) Other source milk unregulated;

(3) Other source milk under Federal regulation;

(4) Beginning inventory;

(5) Receipts from other handlers (according to classification);

(6) Add shrinkage deducted in (1); and

(7) Overage.

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

(c) *Class prices.* For the first 18 months the order is in effect, the Class I price for the Mississippi Gulf Coast market should be the same as the Class I price under the Central Mississippi milk marketing order.

The Gulf Coast marketing area is bounded on the north by the Central Mississippi marketing area. There is substantial competition between the two markets, both in procurement and sale of milk. With respect to procurement, over 15 percent of the total number of shippers supplying the Gulf Coast handlers are actually located within the Central Mississippi marketing area. Conversely, substantial numbers of Central Mississippi producers shipping to handlers located at Hattiesburg and other points are located in these same counties and in the seven counties which comprise the Gulf Coast marketing area. In addition, several Central Mississippi handlers make regular route sales of milk in the Gulf Coast.

There is also substantial competition between the Gulf Coast and New Orleans markets. The plant operated by the Louisiana-Mississippi Milk Producers' Association at Poplarville, Mississippi, is regulated as a pool supply plant under the New Orleans order. From this plant the association also furnishes a full supply of milk by bulk tank truck to a Picayune, Mississippi, bottling plant which would be subject to regulation hereunder. In addition, a New Orleans distributor has regular route sales in the southwestern portion of the Gulf Coast market. Under the New Orleans order the Class I and uniform prices are announced at the 60–70-mile zone. Poplarville is in the 81–90-mile zone and has a minus 4-cent differential.

In both the New Orleans and Central Mississippi orders, Class I prices are set at stated differentials over identical basic formula prices. In New Orleans the differentials are $2.30 during the flush months of March through June and $2.50 in the other 8 months, for an average of $2.43. In Central Mississippi the differentials for the corresponding months are $1.85 and $2.25, for an average of $2.12. The New Orleans Class I price is further subject to a supply-demand adjustment which raises the differential whenever supplies are below normal in relation to Class I sales and lowers it when an over-supply is indicated. In each of these orders the Class I prices have been in effect for a sufficient length of time to demonstrate that they are adequate to induce the production of a sufficient supply of pure and wholesome milk for the needs of the market.

Since the Gulf Coast market is most directly in competition with Central Mississippi, that market rather than New Orleans should serve as the primary determinant of Class I prices in the Gulf Coast. The Gulf Coast is, of course, more distant from the usual sources of supplemental milk (Missouri, Iowa, Minnesota, and Wisconsin) than the major cities in Central Mississippi. Supplemental milk would, therefore, be expected to cost more because of the added transportation to Gulf Coast points. On the other hand, the location adjustment which would apply to milk furnished to Central Mississippi from a plant at Gulfport would be 10.5 cents per hundredweight. However, the primary competitive factor in this case is the procurement of milk. Many of the shippers in the northern portion of the Gulf Coast market and in the southeastern portion of the Central Mississippi market can readily ship to either area at approximately the same hauling cost. By setting the Gulf Coast Class I price at the same level as in Central Mississippi, the blend prices will determine which market is the more attractive to these producers. They will tend to ship to the market with the higher blend price and this will be the market in which supplies are lowest in relation to Class I sales.

Some time after the order has been in operation a full year, a hearing can be called to consider more permanent Class I price provisions. At such time considerable marketwide data on all aspects of the marketing of milk in the area will have become available. These data can be expected to provide for a reappraisal of the Class I price structure.

Class II price. The Class II price should reflect the value of milk for general manufacturing uses in the Mississippi Gulf Coast milkshed. The average of the prices paid at four Mississippi dairy manufacturing plants provides an appropriate indication of the value of milk for such uses in the area. The four plants selected are in the general area of the Mississippi Gulf Coast milkshed and are not operated or controlled by persons who will be handlers under the order.

To the monthly average of prices paid at local dairy manufacturing plants 10 cents per hundredweight should be added for the months of March through July and 20 cents in all other months. The proposed Class II price will be the same as the Class III price under the Central Mississippi order and will be slightly lower than the New Orleans Class II price. In 1957 the Central Mississippi Class II price averaged $3.29 while the New Orleans Class II price averaged $3.31.

The cooperative associations are in a position to divert milk directly from producers' farms to a manufacturing plant if the occasion arises. There are a number of plants located within the surplus disposal area where the associations would be able to dispose of reserve supplies of milk.

However, the proposed Class II price will be a level that will tend to discourage handlers from procuring needless supplies of Grade A milk for Class II uses and thus will tend to maximize returns to producers for Grade A milk used in Class II.

Butterfat differentials. Butterfat and skim milk will be accounted for separately for classification purposes since they are not used in most products in the same proportions as received from producers. The basic test for which class prices are determined is 4.0 percent butterfat content, the usual fat test at which prices are quoted in the area, and on which the market has operated for

many years. It will then be necessary to adjust Class I and Class II prices of milk to handlers in accordance with the average test of milk used in each class. Butterfat differentials which reflect differences in value due to differences in butterfat content are used for this purpose.

Producers proposed that the handler butterfat differential for Class I milk be 0.12 times the Chicago price of 92-score butter. In the Mississippi Gulf Coast area, fluid cream must be from Grade A milk and is therefore priced as Class I milk. Butterfat in cream from inspected sources sold as fluid cream or cream mixtures has a higher value than that in ungraded milk which will be approximately reflected by a butterfat differential 0.12 times the Chicago butter price. Such a differential should be used to adjust the hundredweight price of Class I milk for each one-tenth percent variation for 4.0 percent butterfat content. The Class II butterfat differential should be 0.11 times the Chicago butter price as proposed. Such a differential reflects an appropriate value of butterfat for Class II uses in this area.

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

Location differentials. Fluid milk products, because of their bulky, perishable nature, incur a relatively high transportation charge if moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional cost of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the market area in lieu of incurring the additional cost of hauling his milk into the central market. Under these conditions the value of producer milk delivered to plants located some distance from the central market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the central market.

Distant plants not subject to another order may become partially or fully regulated by this order. The operator of such a plant would incur a substantial transportation cost on the bulk or packaged milk before reaching any portion of the marketing area and should be allowed an offsetting credit in order to be fully competitive with the pool plants located within the marketing area. The means of allowing for transportation costs under the order is to establish the Class I price for such milk delivered to plants at a point in the market and then provide a schedule of deductions from the Class I price as location differentials. This will place all handlers on an equal competitive basis on the Class I milk distributed in the marketing area.

In applying location differentials under the Mississippi Gulf Coast order the mileage zone of a plant should be determined by the shortest highway distance, as determined by the market administrator, from the Court House at Gulfport or Pascagoula, Mississippi, whichever is closer. These cities are so situated with respect to the overall marketing area so that basing location differential mileage zones from the nearer of them would be equitable to all handlers.

Because of the close competition between the plants which are located within the marketing area, it would be inappropriate to have location differentials applicable at such plants. Accordingly, it is concluded that the announced Class I price would be applicable at all plants located less than 100 miles from either Gulfport or Pascagoula, whichever is closer. For plants which are located in the 100–110 mile zone the Class I price should be reduced by 15 cents and by an additional 1.5 cents for each additional 10 miles or fraction thereof that such plant is located beyond 110 miles.

The location differential proposed herein is economically sound and will be applicable to all handlers wherever located. The proposed rates are fundamentally the same as those contained in various other orders and are representative of the cost of hauling milk by an efficient means to the market.

The producer should receive less for milk delivered to points which are distant from the marketing area in lieu of incurring the additional cost of hauling his milk to the marketing area. Under these conditions the value of producer milk delivered to plants should be reduced in proportion to the distance that such plant is from Gulfport or Pascagoula, Mississippi, by the same rate that applies to Class I milk.

Equivalent price. An equivalent price provision is designed to meet an emergency situation in which a price quotation necessary in the determination of class prices, or for any other purpose, may not be available. In such event, the Secretary would determine a price equivalent to the price quotation normally available. The provision proposed will remove uncertainty as to the procedure to be followed in the absence of any price quotation provided for in the order and thereby will prevent unnecessary interruption in the administration of the order.

Payments on unpriced milk. The order should provide compensatory payments with respect to unpriced milk which is allocated to Class I in a pool plant, in any month when receipts from producers exceed 112 percent of Class I utilization at all pool plants in the market.

Plant operators must have available a larger supply of milk than is necessary to fill their Class I requirements on any given day. Reserves are needed because production fluctuates seasonally without corresponding changes in the demand for Class I milk. Reserves are also needed to cover short-time fluctuations in receipts and for variations in Class I requirements resulting from 5- or 6-day bottling, the heavy weekend demand at grocery stores, holidays, and similar factors. The reserve milk is commonly manufactured into the more storable and transportable dairy products which are sold in competition with products made from manufacturing grade milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is a primary element of instability affecting fluid milk markets.

There are considerable volumes of such Grade A reserve milk close enough to be available to Gulf Coast handlers. A Grade A supply plant for the Houston, Texas, market operated by the South Texas Milk Producers Association at Magnolia, Mississippi, is one available source of unpriced reserve milk. The distributor from Pensacola who was holding part of the Keesler Field contract at the time of the hearing had apparently obtained another supply of such milk.

Since this reserve milk in other markets is ordinarily converted to manufactured dairy products, the seller would be willing to market it at any price which would net him more than the manufacturing value. Consequently, handlers under the Gulf Coast order could expect to obtain such reserve milk at approximately manufacturing values as reflected in the Class II price under the order. It is, therefore, appropriate that the compensatory payment on other source milk allocated to Class I should be the difference between the Class II price and the Class I price, adjusted to the location of the plant from which such other source milk was received from farmers. This rate will reflect generally the difference in value between unregulated and regulated milk for Class I use. The payment will, therefore, remove any competitive sales advantage which the regulated handler might otherwise obtain by substituting other source milk for available producer milk.

The compensatory payment should apply in all months except those in which the market supply of producer milk is inadequate to fill Class I requirements, including an operating reserve of 12 percent. On the basis of past experience, it appears that during times when producer supplies in the Gulf Coast market have not been adequate, the other nearby sources have also been in short supply. At such times milk must be obtained from Missouri, Wisconsin, or other distant sources and has commonly cost more delivered to Mississippi points than the Class I prices paid to local producers. Under these circumstances, there is no competitive advantage to be gained by the use of other source milk, and compensatory payments would be inappropriate.

It is administratively necessary to use the stated rate of compensatory payment

instead of attempting to determine an appropriate rate in each given case. Pool plant operators may obtain other source milk with little or no advance notice from a wide variety of sources. Any attempt to determine the actual cost of such milk to the regulated handler would be complicated by the number of plants involved, the fact that some of the plants supplying the other source milk might be operated by the same handler in which case the interplant billing would be purely arbitrary, the possibility of arbitrary billing even where the plants were not under common ownership, and the fact that the originating plant would not be subject to the audit and payment provisions of the order. It is, therefore necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein provided are those which will best effectuate the intent of the Act under current marketing conditions in the area.

Other source milk used in the form of concentrated milk products should be considered to be from a source at the location of the pool plant where it is used. In some instances there will be no, and in all cases insignificant, transportation charges per hundredweight experienced by handlers on such other source milk under the skim milk equivalent basis of accounting provided in the order. By following this procedure, the compensatory payment on other source milk derived from concentrated products, such as condensed milk or nonfat dry milk solids, will be comparable to that on any other source milk which is allocated to Class I milk.

No compensatory payments are required on milk which has been classified and priced under any other Federal order. The alignment of Class I prices for the Gulf Coast market with those provided under the Central Mississippi and New Orleans markets has already been described. It follows that there is little opportunity for handlers in any one of the markets to achieve any appreciable competitive advantage over handlers regulated by other Federal orders.

Another category of unpriced milk is that sold on routes in the marketing area by handlers operating nonpool plants. There are the plants which are primarily associated with some other market but from which less than 20 percent of the total supply is sold as Class I within the Gulf Coast marketing area. Also, it is conceivable that a distributing plant might fail to achieve pool status because less than half of its total receipts were disposed of in fluid form.

These nonpool distributors should have the choice of paying either the difference between the Class I and Class II prices on their sales within the area or any amount by which such operator has failed to pay his Grade A dairy farmers the use value of milk at order prices.

Handlers operating nonpool distributing plants are required to file such reports as will enable the market administrator to verify their nonpool status. Under the second option described in the preceding paragraph (that of proving minimum payments to dairy farmers) the nonpool distributor would file a complete report of receipts and utilization. From such reports, subject to audit, the value of his disposition of milk would be computed at the class prices adjusted for location and butterfat content in the same manner as for a pool plant. From this utilization value, the market administrator would subtract cash payments to the Grade A dairy farmers who constitute the regular supply of milk at the nonpool plant. Only such payments would be recognized as had been made to dairy farmers by the 20th day following the end of the delivery month. The payments would be the gross amount paid for milk delivered by farmers to the nonpool plant; the only deductions allowed would be those authorized in writing by the dairy farmers for supplies or services, including hauling. Any amount by which such payments fail to equal the utilization value of the milk would be payable to the utilization fund. In this way, the nonpool plant operator would be fully equated, so far as the utilization cost of his milk is concerned, with the pool plant operators.

In case the nonpool plant receives no milk or only part of its supply directly from dairy farmers, the application of these provisions should follow those which would be applied to similarly situated pool plants. For example, on the basis of the operations described in the record the Dairy Fresh Corporation plant at Prichard, Alabama, would be a nonpool plant. No milk is received directly from farms at the Prichard plant; its principal supply is from a receiving plant located at Greensboro, Alabama. In this instance, the Greensboro plant constitutes a supply plant and the entire operation there and at Prichard would be reported and audited to compare payments to dairy farmers delivering at Greensboro with class utilization and values of all milk received at and disposed of from the two plants.

The milk production area around Greensboro, Alabama, is entirely separate from that drawn upon by those Gulf Coast handlers who would be fully regulated hereunder. There was no proposal for extending regulation into Alabama, nor did producers there desire to be included under a Federal order at this time. In the circumstances, the Gulf Coast producers and handlers were concerned only that this Alabama handler, or any other nonpool handler who might be affected, be denied any competitive advantage based on minimum class prices paid to producers. They were not concerned about the possibility that nonpool handlers would have any competitive advantage in the procurement of milk through lack of pooling.

Other nonpool handlers may purchase some milk from dairy farmers and the remainder from other sources. The other source and dairy farmer milk will be allocated in the same fashion as if the plant were a pool plant, and compensatory payments computed if the other source milk did not come from plants subject to a Federal order.

The option of paying the difference between the Class I and Class II prices on the quantities sold as Class I in the marketing area should also be available to any handler operating a nonpool plant. Such payment will remove any competitive sales advantage as compared with fully regulated handlers just as in the case of other source milk allocated to Class I at a pool plant.

The assessment of administrative expenses should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between Class I and Class II prices on his in-area sales, he should continue to pay administrative expense only on such quantities. However, if he elects the payment-to-dairy farmers option, he should pay administrative expense on his entire receipts from the Grade A dairy farmers. Obviously, the second option involves fully as much verification of receipts and utilization by the market administrator as at a pool plant. Such verification might well include the checking of weights and butterfat tests of receipts from dairy farmers and of the product sold as well as an audit of the books and records. Also, some of the fully regulated plants have nearly as large a proportion of out-of-area sales as a nonpool distributor yet are assessed administrative expense on their entire receipts.

(d) *Distribution of proceeds to producers; type of pool.* Returns from the sale of milk should be distributed to producers through a marketwide pool rather than through individual-handler pools. Under the marketwide pool, all producers regularly supplying the market would receive the same uniform price for their milk regardless of its utilization by the particular handler who received it. This type of pool provides for the uniform distribution among all producers in the market of the sales proceeds from the Class I and reserve supplies of milk.

A marketwide pool will also accommodate the previously described distribution of milk by the Alabama handler located at Prichard, Alabama, without either directly involving his primary market in Mobile, Alabama, through complete regulation or leaving his milk unpriced. It will be recalled that this handler will be an operator of a nonpool plant under this order and will be subject to the compensatory payment provisions applicable to such handler.

The marketwide pool will also contribute to the flexibility of milk marketing in the Mississippi Gulf Coast area in two important respects. One is that supplemental supplies can be freely distributed among handlers without affecting the prices paid to producers at each plant. The second is that temporary or seasonal reserves can be moved between plants either by transfer of the milk or of the shippers without affecting the prices paid to producers at the individual plants.

A marketwide pool will permit any handler to bid on contracts as those offered by military installations and other public institutions and to obtain supplies for such sales without upsetting

the market whenever the business might shift from one handler to another.

Base-excess plan. A base and excess plan of distributing returns for milk among producers for the purpose of encouraging level production should be adopted for this market.

A base and excess plan would be an effective means of improving the seasonal pattern of milk deliveries because it would relate producer returns directly to deliveries of milk during the low production months. Such a plan will help achieve a production pattern more nearly fitted to the sales pattern for fluid milk products in this area. A base and excess plan that is uniformly applied to all producers by being made a part of the attached order, will play an essential role in stabilizing marketing conditions in the Mississippi Gulf Coast area.

Fundamentally the base-excess plan proposed by the cooperative association and included herein is similar to that now being used by most of the handlers in the area. The period for base-making would be the months of September through January. Each producer would be assigned a daily base equal to his deliveries during that period divided by the number of days from the first day of his deliveries (using days of production in the case of a bulk tank shipper) to the last day of January, or by 120, whichever is more. The daily bases for each producer should be announced on or before March 1 of each year.

During the months of March through July separate uniform prices would be computed for base milk and excess milk for the purpose of allocating Class I sales first to base milk. Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month during which he delivers milk to any handler. The excess price would be the Class II price except in these months when the total Class I sales exceed the total quantity of base milk. During such months the excess price would be a blend of the Class I and Class II usage of excess milk. The base price is determined by dividing the total base milk into the remaining returns for all producers after subtracting the value of excess milk and the value of milk from producers with no base. The proposed method of arriving at uniform prices for base and excess milk will avoid the possibility that the price for base milk could exceed the Class I price.

Certain rules regulating the transfer of established bases were proposed and are adopted herein subject to some modification. Transfers within these rules should be made only on written request filed with the market administrator. The rules permit reasonable transfer of bases and correspond closely to present practices in the market.

The proposed rules provide for computing bases for dairy farmers on deliveries during the preceding base-forming period whenever any plant first achieves pool plant status in a base paying period. This provision will permit these producers to share equally with all other producers in the returns for milk.

Payments to producers and cooperative associations. The order should provide that each handler make final payment to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each month. Since it has been the practice in this area for handlers to pay producers semimonthly, provision has been made for partial payments to producers on or before the 25th of each month for milk delivered during the first 15 days of such month at not less than the Class II price per hundredweight for the preceding month. No adjustment for butterfat content or location is required on such advance payment.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions from the final settlement for goods or services furnished, or for payments made on behalf of the producer.

The order should provide that handlers shall, if so requested, make payment directly to qualified cooperative associations for milk received from producer members of such association. This provision is necessary to enable producer cooperative associations to carry out their essential functions as authorized by the Act.

The successful operation of any classified pricing program and of a milk marketing order is dependent in large measure upon the cooperative marketing activity of producers supplying the market. The collective marketing activities of cooperative associations are of benefit not only to member producers, but also to producers not members of the association who are able to market their milk in a stable and orderly market at prices comparable to those received by association members. Under such marketing conditions, all producers are assured that they will be paid for their fair share of the fluid sales. They are assured, also, that their milk will not be displaced with milk purchased from other producers at lower prices than they received. The stable and orderly marketing conditions which may be achieved and maintained by cooperative action of producers likewise are of benefit to consumers and distributors in that they foster a dependable supply of pure and wholesome milk.

In order for a cooperative association to be able to carry out these functions, it is important that such association have full authority and not be impeded in collective bargaining and in selling milk. In order for a cooperative association to be able to market milk effectively and distribute returns therefrom to producer members, it may be necessary for them to receive payments for such milk. Thus, payments to all members of the association may be made in accordance with the association's pooling program authorized by the Act. Under the authority of the Marketing Agreement Act, payments may be received by a cooperative association on behalf of its members for milk caused to be marketed by the association.

At the time handlers make payment to producers or to cooperative associations for milk they should be required to furnish each such producer or cooperative association with a statement. This statement should show the pounds and butterfat tests of milk received, together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

Producer-settlement fund. Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund, and all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal except for minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be accumulated by deducting between 4 and 5 cents each month from the uniform or base price, as applicable, after adding half of the unobligated balance to the pool from which such prices are computed. Since excess milk will rarely share in the higher class uses of the market, and deduction for the reserve from the excess milk price would reduce this price below the level of ungraded manufacturing milk prices, excess milk need not contribute to this revolving reserve fund in months when payments are computed under the base-excess plan.

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

(e) *Administrative provisions.* The remaining provisions of the order are of a general administrative nature, are incidental to the other provisions of the order, and are necessary for the proper and efficient administration of the order. They provide for the selection of a market administrator, define his powers and duties, provide for an administrative assessment, prescribe the information to

be reported by handlers and set forth the rules to be followed in making the computations required by the order. They also prescribe the length of time that records must be retained and provide a plan for the liquidation of the order in the event of its suspension or termination. They are similar to like provisions of other orders, and except as set forth below require no comment.

Expenses of administration. As his share of the expenses of administering this order each handler should pay not in excess of 5 cents per hundredweight with respect to all producer milk received, all other source milk received at a pool plant which was classified as Class I milk, and as prescribed in § 1014.61 of the attached order with respect to a handler operating a nonpool plant. The market administrator must verify receipts and utilization of all such milk; therefore all such milk should be subject to the expenses of administration. Experience in other markets indicates that 5 cents per hundredweight with respect to all such milk should yield sufficient money to cover expenses of administration. If payment of expenses of administration at the rate of 5 cents per hundredweight yields more money than is needed, provision is made for the Secretary to prescribe a lesser rate of payment from time to time.

Marketing services. A provision should be included in the order for furnishing market services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member-producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is need for a marketing service program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are in accordance with the classification, pricing and pooling provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program of the order is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

In the case of producers who are members of the cooperative operating a plant, the matter of milk-testing and milk-weighing is under the complete control of such producers and is assessed against such producers either through an association check-off or as a plant operating cost. The bargaining associations were not performing check weighing and testing services at Gulf Coast plants at the time of the hearing. However, whenever such services are adequately performed by cooperatives, the market administrator need not duplicate the services. The additional service of providing market information to producers is carried on to some extent at present by the cooperatives although detailed information regarding market prices, supplies, and the utilization of milk is not available either to the cooperative associations and their members or the independent producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 7 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing. In the event any qualified cooperative association of producers is determined by the market administrator to be performing such services for its members, handlers would be required to pay to the cooperative association such association dues as are authorized by its members.

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

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1957, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444) covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of the decision.

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

Day of the Month and Function

6th—Submission of monthly reports of receipts and utilization by handlers.

6th—Announcement of class price and butterfat differentials by the market administrator.

10th—Announcement of uniform price and producer butterfat differential by market administrator.

12th—Payments by handlers of amounts due producer-settlement fund and expenses for administration and marketing services.

13th—Payments by market administrator due handlers from producer-settlement fund.

15th—Final payment to producers.

25th—Partial payment to producers.

Milk subject to other Federal orders. A handler who operates a plant at which minimum prices to dairy farmers are established under another order issued pursuant to the act, but nevertheless supplies milk for distribution in the Mississippi Gulf Coast marketing area should be exempt from the provisions of this order, except for reporting his volume of Class I sales in the marketing area. It would be impracticable to attempt to regulate a handler under two separate orders with respect to the same milk. The applicable order should be determined by the volume of Class I sales.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

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

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

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

Recommended marketing agreement and order. The following order regulating the handling of milk in the Mississippi Gulf Coast marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

DEFINITIONS

Sec.	
1014.1	Act.
1014.2	Secretary.
1014.3	Department of Agriculture.
1014.4	Person.

DEFINITIONS

§ 1014.1 *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.).

§ 1014.2 *Secretary.* "Secretary" means Secretary of Agriculture of the United States, or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 1014.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1014.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1014.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association, to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act.

§ 1014.6 *Mississippi Gulf Coast marketing area.* "Mississippi Gulf Coast marketing area", hereinafter called the marketing area, means all the territory, including incorporated municipalities and military reservations, within the counties of George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone, all within the State of Mississippi.

§ 1014.7 *Route.* "Route" means a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product, other than a delivery to any milk processing plant.

§ 1014.8 *Distributing plant.* "Distributing plant" means any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which fluid milk products are disposed of on a route(s) in the marketing area.

§ 1014.9 *Supply plant.* "Supply plant" means any plant at which milk eligible for distribution in the marketing area under a Grade A label, is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1014.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1014.62, from which during the month:

(1) Disposition in the marketing area of fluid milk products on routes is 20 percent or more of the total receipts of Grade A milk; and

(2) Total disposition of fluid milk products on routes is 50 percent or more of the total receipts of Grade A milk; or

(b) A supply plant from which during the month 50 percent or more of receipts from dairy farmers is moved to a plant described in paragraph (a) of this section. Any supply plant that was a pool plant during the months of September through January immediately preceding shall continue to be a pool plant each of the following months of February through August unless written notice to the market administrator is received before the first day of the month of its intention to withdraw in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping 50 percent or more of its receipts from dairy farmers to a plant described in paragraph (a) of this section.

§ 1014.11 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1014.12 *Handler.* "Handler" means:

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

(b) The operator of a nonpool distributing plant with route distribution in the marketing area; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1014.14.

§ 1014.13 *Producer-handler.* "Producer-handler" means a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own production or transfers from a pool plant(s).

§ 1014.14 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or is diverted by a handler from a pool plant to a pool plant or to a nonpool plant, which is not subject to another order issued pursuant to the Act, for the account of such handler but for not more than 10 days production during any months of September through January. Milk diverted for the account of such handler shall have been deemed to have been received at the plant from which it was diverted.

§ 1014.15 *Producer milk.* "Producer milk" means all skim milk and butterfat received at a pool plant directly from producers, or diverted pursuant to § 1014.14.

§ 1014.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products from pool plants, and (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, or for which other utilization or disposition is not established.

§ 1014.17 *Fluid milk product.* "Fluid milk product" means all the skim milk (including concentrated and reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks or concentrated milk (not sterilized or in hermetically sealed containers), eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, ice cream mix, frozen dessert mix).

§ 1014.18 *Chicago butter price.* "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

MARKET ADMINISTRATOR

§ 1014.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1014.21 *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.

§ 1014.22 *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 the funds provided by § 1014.88, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1014.87, 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) Verify all reports and payments of each handler by examination of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(h) Publicly disclose, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1014.30 and 1014.31, or payments pursuant to §§ 1014.80 to 1014.82, 1014.84 and 1014.86 to 1014.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing;

(1) On or before the 6th day of each month, the minimum price for Class I milk pursuant to § 1014.50 (a) adjusted by the applicable location adjustments pursuant to § 1014.52 and the Class I butterfat differential computed pursuant to § 1014.51 (a), both for the current month, and the minimum price for Class II milk computed pursuant to § 1014.50 (b) and the Class II butterfat differential computed pursuant to § 1014.51 (b) both for the previous month;

(2) On or before the 10th day after the end of each of the months of August through February, the uniform price computed pursuant to § 1014.71, adjusted by the applicable location adjustments pursuant to § 1014.82, and by the butterfat differential computed pursuant to § 1014.81; and

(3) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk computed pursuant to § 1014.72, adjusted by the applicable location adjustment pursuant to § 1014.82, and the butterfat differential computed pursuant to § 1014.81;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by each handler; and

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

REPORTS, RECORDS AND FACILITIES

§ 1014.30 *Reports of receipts and utilization.* On or before the 6th working day, excluding Sundays and holidays, of each month each handler, other than a producer-handler or a handler making payment pursuant to § 1014.61 (a), shall report for the preceding month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat in:

(1) Milk received from producers and for the months of March through July the total quantity of base and excess milk. In lieu thereof the operator of a nonpool distributing plant shall report aggregate receipts from dairy farmers who would be producers if such plant were a pool plant;

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

(3) Other source milk; and

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

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

(1) Disposition of fluid milk products on routes within the marketing area from plants described in §§ 1014.61 and 1014.62, and from other plants for which the market administrator requires such information as a basis for determination of status or obligations; and

(2) Class I milk outside the marketing area;

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

§ 1014.31 *Other reports.* (a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1014.12 (c) shall report its producer payroll for the preceding month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer and for the base-operating months of March through July the total pounds of base and excess milk;

(3) The number of days on which milk was received from such producer if less than a full calendar month;

(4) The average butterfat content of such milk; and

(5) The net amount of such handler's payment, the price paid and the amount and nature of any deductions;

(b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1014.80 (c) shall report to such cooperative association with respect to each such producer, as follows:

(1) On or before the 20th day of each month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the 10th day after the end of each month;

(i) The daily and total pounds of milk received during the month with separate totals for base and excess milk for the months of March through July, and the average butterfat test thereof; and

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

(c) On or before the 25th day after the end of the month each handler (other than a producer-handler or one described in § 1014.62) operating a nonpool distributing plant and making payments pursuant to § 1014.61 (b) shall report his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer:

(1) The pounds of milk;

(2) The average butterfat content thereof; and

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

§ 1014.32 *Producer-handler reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 1014.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

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

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

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1014.34 *Retention of records.* All books and records required under this part to be made available to the market administrator, shall be retained by the handler for a period of three years to begin at the end of the 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 written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1014.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat required to be reported pursuant to § 1014.30 shall be classified (separately as skim milk and butterfat), pursuant to § 1014.41 to § 1014.46.

§ 1014.41 *Classes of utilization.* Subject to the conditions set forth in § 1014.42 to § 1014.46 the classes of utilization shall be as follows:

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

(b) Class II shall be all the skim milk and butterfat (1) used to produce any product other than a fluid milk product, (2) in skim milk authorized by the market administrator to be dumped or accounted for as disposed of for livestock feed, (3) 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 receipt of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers, less 1.5 percent of receipt of skim milk and butterfat, respectively, transferred in bulk lots to pool plants of other handlers; (4) in shrinkage of other source milk, and (5) in inventories of fluid milk products on hand at the end of the month.

§ 1014.42 *Assignment of shrinkage.* The market administrator shall assign shrinkage at the pool plant(s) of each handler as follows:

(a) Compute the total shrinkage of skim milk and butterfat.

(b) Assign the resulting amount, prorated to the handler's receipts of skim milk and butterfat, respectively, in (1) milk received directly from producers and from other pool plants and (2) other source milk.

§ 1014.43 *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.

§ 1014.44 *Transfers.* Skim milk and butterfat transferred or diverted during the month as milk, skim milk or cream from a pool plant to:

(a) The pool plant of another handler shall be classified as Class I unless Class II is indicated by the operators of both plants in their reports submitted pursuant to § 1014.30 and:

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

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

(b) A plant operated by a producer-handler shall be Class I;

(c) A nonpool plant, except as specified in paragraph (b) of this section, shall be Class I unless:

(1) The transfer is in bulk form and the transferring handler claims Class II use on his report for the month;

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

(3) The skim milk and butterfat respectively, received at the nonpool plant during the month from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the act does not exceed the skim milk and butterfat, respectively, resulting from the following computation:

(i) Determine the skim milk and butterfat, respectively, used to produce any items of Class II milk (as defined pursuant to § 1014.41 (b)) at such nonpool plant during the month;

(ii) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a plant at which milk is priced pursuant to this part or another order issued pursuant to the act and such cream is allocated to other than Class I (under the applicable order definitions and allocation procedures at the transferee plant);

(iii) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant which is not in excess of the items of Class II processed in such second nonpool plant plus the bulk fluid cream shipped from such second nonpool plant to other nonpool plants which do not disposed of milk or cream for consumption in fluid form: *Provided*, That the second nonpool plant meets the conditions of subparagraph (2) of this paragraph; and

(iv) Subtract the skim milk and butterfat, respectively, received in fluid milk products at such nonpool plant from any source(s) other than that which has been approved by a governmental agency as a source(s) of Grade A fluid milk products. In the event that the remaining skim milk and butterfat, respectively, computed pursuant to this subdivision is less than the skim milk and butterfat, respectively, received at such nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the act, the difference shall be assigned pro rata, to each pool plant (in accordance with receipts of skim milk and butterfat, respectively, from all plants regulated pursuant to the act), and shall be classified as Class I milk.

§ 1014.45 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an

amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1014.46 *Allocation of skim milk and butterfat.* After making the computation pursuant to § 1014.45, the market administrator shall determine the classification of producer milk as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 1014.41 (b) (3);

(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, except that to be subtracted 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 subject to the pricing and payment provisions of another 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 in inventory of fluid milk products on hand at the end of the month;

(5) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers in such class pursuant to §§ 1014.41 and 1014.44 (a);

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

(7) If the remaining pounds of skim milk in all classes exceeds the pounds of skim milk in milk received from producers, subtract such excess from the remaining pounds of skim milk in each class in series beginning with Class II;

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the same manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk.

(c) Add the pounds of skim milk and butterfat allocated to producer milk in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percent of butterfat in such milk in each class.

MINIMUM PRICES

§ 1014.50 *Class prices.* Subject to the provisions of §§ 1014.51 to 1014.53 the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I price.* For the first eighteen months beginning with the effective date of prices the price per hundredweight for Class I milk of 4.0 percent butterfat content shall be the price for Class I milk computed pursuant to § 987.51 (a) of this chapter (handling of milk in the Central Mississippi marketing area).

(b) *Class II price.* The price per hundredweight for Class II milk shall be the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture; plus 10 cents during each of the months of March through July and plus 20 cents during all other months.

Present Operator and Location

Kraft Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

§ 1014.51 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices determined pursuant to § 1014.50 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat by multiplying the Chicago butter price by the applicable factor specified below, and rounding to the nearest one-tenth cent.

(a) *Class I milk.* Multiply such price for the preceding month by 0.12; and

(b) *Class II milk.* Multiply such price for the current month by 0.11.

§ 1014.52 *Location differentials to handlers.* For milk which is received from producers at a pool pant located more than 100 miles by the shortest highway distance as determined by the market administrator from the courthouse in Gulfport or Pascagoula, Mississippi, whichever is closer, and which is classified as Class I milk the prices computed pursuant to § 1014.51 (a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles: *Provided*, That, for the purposes of calculating such location differentials, fluid milk products are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1014.46 (a) (1), (2) and (3), and the comparable steps in § 1014.46 (b) for such plant, such assignment to transferor-plants to be made first to plants at which the greatest location differential is applicable.

§ 1014.53 *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

§ 1014.60 *Producer-handlers.* Sections 1014.40 to 1014.46, 1014.50 to 1014.53, 1014.61, 1014.70 to 1014.72, and 1014.80 to 1014.88 shall not apply to a producer-handler.

§ 1014.61 *Handler operating a nonpool distributing plant.* In lieu of the payments required pursuant to §§ 1014.80 to 1014.88 each handler, other than a producer-handler or one exempt pursuant to § 1014.62, who operates during the month a nonpool distributing plant, shall pay to the market administrator on or before the 25th day after the end of the month the amount calculated pursuant to paragraph (a) of this section unless the handler elects at the time of reporting pursuant to § 1014.30, 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 § 1014.88 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 § 1014.70 if such handler had operated a pool plant the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant or at a plant(s) which serves as a supply plant(s); and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1014.88 had such plant been a pool plant.

§ 1014.62 *Plants subject to other Federal orders.* The provisions of this part, except §§ 1014.30 (b) (1), 1014.33 and 1014.34, shall not apply to:

(a) A distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I is disposed of from such plant during the month on routes in the Mississippi Gulf Coast marketing area than in the marketing area defined in such other order.

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

DETERMINATION OF UNIFORM PRICE

§ 1014.70 *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 § 1014.46 (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 § 1014.46 (a) (7) and (b) 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 shrinkage) during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 1014.46 (a) (4) and (b), whichever is less; and

(d) For any skim milk or butterfat subtracted from Class I milk pursuant to § 1014.46 (a) (2) and (b), and pursuant to § 1014.46 (a) (4) 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 112 percent of the total Class I utilization of such plants for the month.

§ 1014.71 *Computation of uniform price.* For each of the delivery periods of August through February 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 § 1014.70 for all handlers specified in § 1014.12 (a) and (c), and who made the payments pursuant to §§ 1014.80 and 1014.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1014.82;

(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 4.0 percent, or add for each one-tenth percent that such average butterfat content is less than 4.0 percent an amount computed by multiplying the butterfat differential computed pursuant to § 1014.81 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 4.0 percent butterfat content received at pool plants f. o. b. marketing area.

§ 1014.72 *Computation of uniform price for base milk and excess milk.* For each of the delivery periods of March 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 § 1014.70 for all handlers specified in § 1014.12 (a) and (c) and who made the payments pursuant to §§ 1014.80 and 1014.84 for the preceding delivery period;

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 1014.81;

(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 4.0 percent or add for each one-tenth percent that such average butterfat content is less than 4.0 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 1014.82 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 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content and adding together the resulting amounts;

(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 4.0 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 4.0 percent butterfat content received from producers at pool plants, f. o. b. marketing area.

§ 1014.73 *Notification of handlers.* On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1014.30, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof;

(b) For the months of March through July the amounts and value of his base and excess milk respectively;

(c) The uniform price(s) computed pursuant to §§ 1014.71 and 1014.72 and the butterfat differential computed pursuant to § 1014.81; and

(d) The amounts to be paid by such handler pursuant to § 1014.84, § 1014.87, § 1014.88, or § 1014.61; and the amount due such handler pursuant to § 1014.85.

BASE RATING

§ 1014.75 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through January by the number of days from the first day milk is received from such producer during said months to the last day of January, inclusive, but not less than 120 days.

§ 1014.76 *Computation of base.* The base of each producer to be applied during the months of March through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days production delivered by such producer to handlers during the month.

§ 1014.77 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a pool plant during the months of September through January and to each person for whose account milk was delivered to a plant that did not qualify as a pool plant during each month of the base forming period, but which qualifies as a pool plant during any of the months of March through July, bases shall be assigned on deliveries at such plant in the same manner as if such plant had been a pool plant during each month of the base forming period; and

(b) An entire base shall be transferred by the market administrator to another person upon receipt of an application form, approved by the market administrator, and signed by the baseholder(s), or his heirs, and by the person to whom such base is transferred subject to the following condition:

(1) If a base is transferred to a producer already holding a base, a new base shall be computed by adding together the producer milk deliveries of the transferee and transferor during the base forming period and dividing the total by the number of days from the first day of delivery by either the transferee or transferor during the base forming period to the last day of January inclusive but not less than 120 days.

§ 1014.78 *Announcement of established bases.* On or before March 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 1014.80 *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 § 1014.71 or § 1014.72, adjusted by the butterfat differential computed pursuant to § 1014.81, subject to the location adjustment to producers pursuant to § 1014.82, and less the following amounts (1) the payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 1014.87, and (3) any proper deductions authorized in writing by the producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1014.85 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 receipts 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 4.0 percent milk for the preceding delivery period, without deduction for hauling; and

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

(1) On or before the 23d 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 13th 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) 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 §§ 1014.80, 1014.81 and 1014.82;

(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 § 1014.87 together with a description of the respective deductions; and

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

§ 1014.81 *Producer butterfat differential.* In making payments pursuant to § 1014.80, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in milk received from each producer is above or below 4.0 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1014.51 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest one-tenth cent.

§ 1014.82 *Producer location differentials.* In making payments pursuant to § 1014.80, for all milk which is received from producers at a pool plant located more than 100 miles but not more than 110 miles by the shortest highway distance as determined by the market administrator from the Courthouse at Gulfport or Pascagoula, Mississippi, whichever is closer, there shall be deducted 15 cents per hundredweight and an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

§ 1014.83 *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 §§ 1014.61 (a) (1) and (b) (1) and 1014.84 and all appropriate payments pursuant to § 1014.86 and out of which he shall make all payments pursuant to § 1014.85 and all appropriate payments pursuant to § 1014.86: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 1014.84 *Payments to the producer-settlement fund.* On or before the 12th 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 § 1014.70 is greater than the amount required to be paid producers by such handler pursuant to § 1014.80 before deductions (a) for marketing services pursuant to § 1014.87 and (b) authorized by the producer.

§ 1014.85 *Payments out of the producer-settlement fund.* On or before the 13th 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 § 1014.70 is less than the amount required to be paid producers by such handler pursuant to § 1014.80 before deductions (a) for marketing services pursuant to § 1014.87 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 shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

§ 1014.86 *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.

§ 1014.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1014.80 (a) shall deduct 7 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) 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 § 1014.80 (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.

§ 1014.88 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler shall pay the market administrator, on or before the 12th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk, including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1014.46 (a) (2) and (b) and

(c) The quantities of milk at the plants of handlers operating nonpool plants as specified in § 1014.61 (a) (1) or (b) (1).

§ 1014.89 *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 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 pay-

able. 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 part, to make available to the market administrator or his representative all books and records required by this part 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 underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1014.90 *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 § 1014.91.

§ 1014.91 *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.

§ 1014.92 *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.

§ 1014.93 *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

§ 1014.100 *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.

§ 1014.101 *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 17th day of September 1958.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 58-7743; Filed, Sept. 22, 1958; 8:48 a. m.]

[7 CFR Part 1024]

[Docket No. AO-308]

MILK IN OHIO VALLEY MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the City Council Chambers of the City Hall, 126 South East Third Street, Evansville, Indiana, beginning at 10:00 a. m., on October 14, 1958, with respect to a proposed marketing agreement and order to regulate the handling of milk in the Ohio Valley marketing area.

This public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions, which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof; and for the purpose of determining (1) whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce, (2) whether there is need for a marketing agreement or order regulating the handling of milk in the area, and (3) whether provisions specified in the proposals or some other provisions appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the Act.

The proposals set forth below have not received the approval of the Secretary of Agriculture.

Proposed by the Ohio Valley Milk Producer's Association, Inc., Evansville, Indiana:

1. The following milk marketing order and agreement:

DEFINITIONS

§ 1024.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 1024.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1024.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by Act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

§ 1024.4 *Person.* "Person" means any individual, partnership, corporation, association or any other business unit.

§ 1024.5 *Ohio Valley marketing area.* "Ohio Valley marketing area" means all of the territory included within Daviess, Henderson and Hancock Counties, all within the State of Kentucky, and all of the territory included within Vanderburgh, Posey, Warrick, and Spencer Counties, all within the State of Indiana.

§ 1024.6 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 1024.7 *Producer-handler.* "Producer-handler" means any person who produces Grade A milk under a dairy farm inspection permit issued by any duly constituted health authority, and

who operates a pool plant, but who receives no milk from producers or from other sources except from operators of pool plants.

§ 1024.8 *Pool plant.* "Pool plant" means any:

(a) Milk distributing plant approved or recognized by any health authority having jurisdiction in the marketing area for the receiving or processing of Grade A milk and from which Class I milk equal to not less than 50 percent of its receipts of milk from other pool plants and from producers is disposed of during the month on a route(s) and from which Class I milk equal to not less than 15 percent of its total Class I disposition is disposed of during the month on a route(s) in the marketing area.

§ 1024.9 *Nonpool plant.* "Nonpool plant" means any milk receiving, manufacturing, processing or bottling plant other than a pool plant.

§ 1024.10 *Handler.* "Handler" means:

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

(b) A cooperative association with respect to milk of producers diverted for the account of such association to a nonpool plant in accordance with the provisions of § 1024.6; or

(c) A cooperative association as defined in § 1024.6 with respect to a milk receiving station operated by such cooperative provided 50 percent or more of the Grade A milk received from members is delivered to handlers either directly or through the receiving station.

§ 1024.11 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority having jurisdiction in the marketing area, which milk is received at a pool plant: *Provided*, That if such milk is diverted for his account by a handler as defined in § 1024.10 (a) from a pool plant to any other milk plant during the months of March through July; the milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which it was diverted.

§ 1024.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk:

(a) Received at the pool plant directly from producers, or

(b) Diverted from the pool plant to any other milk plant in accordance with the provisions of §§ 1024.10 and 1024.11.

§ 1024.13 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk and skim milk drinks, cream (except storage cream), cultured sour cream or sour cream, or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, ice cream and ice milk mix and aerated cream).

§ 1024.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

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

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

§ 1024.15 *Route.* "Route" means any delivery (including delivery by a vendor or a sale from a plant or plant store) of a fluid milk product other than a delivery to any milk processing plant.

§ 1024.16 *Base milk.* "Base milk" means milk received by a handler from a producer during any of the months of April through July which is not in excess of such producer's daily average base computed pursuant to § 1024.60 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 1024.17 *Excess milk.* "Excess milk" means milk received by a handler from a producer during any of the months of April through July which is in excess of base milk received from such producer during such month, and shall include all milk received during such month from a producer for whom no daily average base can be computed pursuant to § 1024.60.

MARKET ADMINISTRATOR

§ 1024.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1024.21 *Powers.* The market administrator shall have the 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.

§ 1024.22 *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 his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay, out of the funds provided by § 1024.87, (1) the cost of his bond and of the bond of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1024.88, 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) Publicly disclose at his discretion to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1024.30 and 1024.31 or (2) payments pursuant to §§ 1024.80 and 1024.82.

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

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 10th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 1024.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his pool plants for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in producer milk including for the months of April through July a statement of the aggregate quantity of base milk;

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

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

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

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 1024.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer: (i) The total pounds of milk received from such producer or cooperative association, including, for the months of April through July, the total pounds of base and excess milk, (ii) the days on which milk was received from such producer, if less than a full month, (iii) the average butterfat content of such milk, and (iv) the net amount of such handler's payment to each producer or cooperative association, together with the price paid and the amount and nature of any deductions;

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

§ 1024.32 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omission, ascertain the correct figures; (b) weigh, sample, and test for butterfat content all milk and milk products handled; (c) verify payment to producers; and (d) make such examination of operations, equipment, and facilities, as are necessary and essential to the proper administration of this part of any amendments thereto.

§ 1024.33 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertains: *Provided*, That if within such three year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c 15 (A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1024.34 *Reports to cooperative associations.* On or before the 15th day after the end of each month, the market administrator shall report to each cooperative association as described in § 1024.6, upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handlers were used in each class.

CLASSIFICATION OF MILK

§ 1024.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported for pool plants pursuant to § 1024.30 shall be classified each month pursuant to the provisions of §§ 1024.41 to 1024.45.

§ 1024.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1024.42 to 1024.45, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk, and

(b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product, (2) in skim milk disposed of for livestock feed, (3) in cream stored and frozen, (4) in inventories of fluid milk products on hand at the end of the month, and (5) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1024.12 (b)) and other source milk; such shrinkage to be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1024.12 (b)) and other source milk, respectively.

§ 1024.42 *Responsibility of handlers and reclassification of milk.* All skim milk and butterfat shall be classified as Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in Class II.

§ 1024.43 *Transfers.* Skim milk or butterfat disposed of by a handler from a pool plant either by transfer or diversion shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of a fluid milk product to a pool plant of another handler, unless utilization in another class is mutually indicated in the reports submitted to the market administrator by both handlers pursuant to § 1024.30 on or before the 7th day after the end of the month: *Provided*, That if upon inspection of the records of the transferee-handler it is found that an equivalent amount of skim milk or butterfat, respectively, was not actually used in such indicated use, the remaining quantity shall be classified as Class I milk: *And provided further*, That if either or both handlers received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest priced possible class utilization to the producer milk of both handlers;

(b) As Class I milk if transferred or diverted to a producer-handler in the form of a fluid milk product;

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located less than 250 airline miles from the Court House in Owensboro, Kentucky, or Evansville, Indiana.

(1) The handler claims classification in Class II in his report submitted to the market administrator pursuant to § 1024.30;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for verification;

(3) An amount of skim milk or butterfat, respectively, of not less than that so claimed by the handler was used in products included in Class II milk;

(4) The classification reported by the handler results in an amount of skim milk and butterfat in Class I milk claimed by all handlers transferring or diverting milk to such nonpool plant of not less than the amount of assignable Class I milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plant and classified as Class I milk, pursuant to the classification provisions of this order applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant;

(ii) From the remaining amount of Class I milk, subtract the skim milk and butterfat respectively, in fluid milk products received from another market and which is classified and priced as Class I milk pursuant to another order issued pursuant to the Act: *Provided*, That the amount subtracted pursuant to this subdivision shall be limited to such markets pro rata share of such remainder based on the total receipts of skim milk and butterfat, respectively, at such nonpool plant which are subject to the pricing provisions of an order issued pursuant to the Act;

(5) If the skim milk and butterfat, respectively, transferred by all handlers to such a nonpool plant and reported as Class I milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class I milk, pursuant to subparagraph (4) of this paragraph, an equivalent amount of skim milk and butterfat shall be reclassified as Class I milk pro rata in accordance with the total of the lower price classification reported by each of such handlers;

(d) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located 250 airline miles or more from the Court House in Owensboro, Kentucky, or Evansville, Indiana.

§ 1024.44 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall

correct for mathematical and other obvious errors the monthly report submitted for the pool plant(s) of each handler pursuant to § 1024.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before such product is disposed of by a handler, the hundredweight of skim milk disposed of in such products shall be considered to be an amount equivalent to the nonfat solids contained in such product, plus all of the water originally associated with such solids.

§ 1024.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II pursuant to § 1024.41 (b).

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the Act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the Act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventories of fluid milk products 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 from the pounds of skim milk remaining in Class I milk.

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1024.43 (a).

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

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

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add the pounds of skim milk and pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

MINIMUM PRICES

§ 1024.50 *Basic formula price.* The basic formula price per hundredweight to be used in determining the price for Class I milk pursuant to § 1024.51 (a) shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraph (a), (b), or (c) of this section:

(a) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month:

Company and location
Borden Co., Mount Pleasant, Mich.
Borden Co., Orfordville, Wis.
Carnation Co., Richland Center, Wis.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
White House Milk Co., Manitowoc, Wis.
Borden Co., New London, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Cooperville, Mich.
Pet Milk Co., Wayland, Mich.
White House Milk Co., West Bend, Wis.

Add an amount computed by multiplying the butterfat differential computed pursuant to § 1024.52 (a) by 5.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph; (1) add 20 percent to the Chicago 92-score butter price for the month, as reported by the U. S. Department of Agriculture, and multiply by 4.0 (2) from the simple average as computed by the market administrator, of the weighted averages of carlot prices per pound 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 of Agriculture, deduct 5.5 cents and multiply by 8.2.

(c) The arithmetical average of the field prices paid per hundredweight for 4 percent milk used for manufacturing purposes delivered at the following plants for the current month:

Producers' Dairy Marketing Association, Orleans, Ind. Kraft Cheese Co., Dale, Ind. Swift and Co., Russellville, Ky. Pet Milk Co., Bowling Green, Ky. Pet Milk Co., Mayfield, Ky.

Average of the field prices paid by all Tennessee manufacturing plants for milk for manufacturing purposes as listed from time to time in the Nashville, Tennessee, Federal order.

§ 1024.51 *Class prices.* Subject to the provisions of §§ 1024.52 and 1024.53 each handler shall pay producers or cooperative associations at the time and in the manner set forth in §§ 1024.80 to 1024.86, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk, and Class II milk computed pursuant to § 1024.45.

(a) *Class I milk price.* The price per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month plus $1.50 during all months of the year.

(b) *Class II milk.* The price per hundredweight shall be the average price reported by the Department for the previous month for milk for manufacturing purposes, f. o. b. plant, United States, adjusted to a 4 percent butterfat basis by direct ratio, plus 10 cents: *Provided*, That during the months of March through August this price shall be reduced by 20 cents per hundredweight for skim milk and butterfat utilized in the manufacture of butter, powder and Cheddar cheese.

§ 1024.52. *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 1024.45, is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply by 0.12 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the immediately preceding month;

(b) *Class II milk.* Multiply by 0.12 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the month: *Provided*, That such butterfat differential shall not exceed the result obtained by dividing the Class II price computed pursuant to § 1024.51 (b) by 40.

§ 1024.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 60 miles or more miles from the Court House in Owensboro, Kentucky, or Evansville, Indiana, by shortest hard surface highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1024.41 (a) (1) to another pool plant and assigned to Class I pursuant to the provision of this section, or otherwise classified as Class I milk, the price specified in § 1024.51 (a) shall be reduced at the rate set forth in the following schedule

according to the location of the pool plant where such milk is received from producers:

Distance from the Court House in Evansville, Ind., or Owensboro, Ky. (miles):	Rate per hundredweight (cents)
80 but less than 90	15
For each additional 10 miles or fraction thereof, an additional	1.5

Provided, That for purposes of calculating such location differential, products so designated as Class I milk which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1024.45 (a) (1) to (4) and the comparable steps in § 1024.45 (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

DETERMINATION OF BASE

§ 1024.60 *Daily average base.* Subject to the rules set forth in § 1024.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer by all handlers during the months of September through February immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of February, inclusive, but not less than 120 days: *Provided*, That in the case of a producer whose milk is received at a plant which becomes fully subject to regulation for the first time upon the effective date of this order, such base shall be that which would have been calculated for such producer for the entire base forming period beginning September 1, or that which would have been calculated for the period beginning November 1, whichever is higher.

§ 1024.61 *Base rules.* The following rules shall apply in connection with the establishment of bases:

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

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

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

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

§ 1024.62 *Announcement of established bases.* On or before April 1, of each year, the market administrator shall notify each producer, the handler receiving milk from such producers and the cooperative association of which such producer is a member of the daily base established by such producer.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1024.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of such milk in each class by the applicable respective class prices (adjusted pursuant to §§ 1024.52 and 1024.53) and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 1024.45 (a) (7) by the applicable class price(s); and

(c) Add any charges computed as follows:

(1) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1024.45 (a) (2) and (b) by the rate of payment on unpriced milk determined pursuant to § 1024.93 adjusted where required by the location differential applicable at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided*, That if the nonpool plant source of any milk or milk product received at a pool plant is not clearly established, such milk or product shall be considered to have been received from a source at the location of the pool plant where it is classified;

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

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

§ 1024.71 *Computation of aggregate value used to determine price(s).* For each month, the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1024.70 for all handlers who made the reports prescribed in § 1024.30 and who made the payments pursuant to §§ 1024.80 and 1024.84 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1024.85 (b).

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1024.84.

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 3.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 1024.85 and multiplying the resulting figure by the total hundredweight of such milk.

§ 1024.72 *Computation of uniform price.* For each of the months of August through March the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers as follows:

(a) Divided the aggregate value computed pursuant to § 1024.71 by the total hundredweight of milk included in such computation; and

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

§ 1024.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through July the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

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

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

(c) Subtract the value of excess milk obtained in paragraph (a) of this section from the aggregate value of milk computed pursuant to § 1024.71 and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

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

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

PAYMENTS

§ 1024.80 *Time and method of payment for producer milk.* (a) On or before the 25th day of each month each handler shall make payment to each producer for milk received from him during the first 15 days of such month at not less than the following schedule

for the preceding month without adjustment for butterfat differential, hauling or other deductions:

If the Class II price for the preceding month is:	*Partial payment per hundredweight shall be—*
Under $1.00	$0.00
$1.00 to $1.49	$1.00
$1.50 to $1.99	$1.50
$2.00 to $2.49	$2.00
$2.50 to $2.99	$2.50
$3.00 to $3.49	$3.00
$3.50 to $3.99	$3.50
$4.00 to $4.49	$4.00
$4.50 to $4.99	$4.50
$5.00 to $5.49	$5.00
$5.50 to $5.99	$5.50
$6.00 or over	$6.00

(b) On or before the 13th day after the end of the month during which the milk was received, to each producer to whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to § 1024.72 and adjusted by the butterfat differential computed pursuant to § 1024.85, subject to location adjustments to producers pursuant to § 1024.85 (b) and less the amount of the payment made pursuant to paragraph (a) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1024.83, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

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

(i) Pay to the cooperative association on or before the 10th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer,

(ii) Submit to the cooperative association on or before the 8th day of each month written information which shows for each member producer,

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

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

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

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

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

(iii) Submit to the cooperative association on or before the 23d day of each month, written information which shows for each member producer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer, who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

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

Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1024.81 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1024.82, 1024.84 and 1024.92, and out of which he shall make all payments pursuant to §§ 1024.83 and 1024.84: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

§ 1024.82 *Payments to the producer-settlement fund.* On or before the 11th day after the end of each month each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 1024.70 for such month is greater than the value of milk received by such handler from producers during the month, computed at the applicable minimum uniform prices as specified in §§ 1024.71 and 1024.72 adjusted for the differentials provided for in § 1024.85.

§ 1024.83 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each month, the market administrator shall pay to each handler, any amount by which the total value of his milk computed pursuant to § 1024.70 for such month is less than the value of his producer milk received during the month, computed at the applicable minimum uniform prices as specified in §§ 1024.71 and 1024.72 adjusted for the differentials provided for in § 1024.85. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1024.84 *Adjustment of errors in payment.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1024.82, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1024.83, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1024.80, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1024.85 *Butterfat and location differentials to producers.*—(a) *Butterfat differential to producers.* If, during the month, any handler has received, from any producer or cooperative association, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in § 1024.80 (b), shall add to the uniform price(s) per hundredweight paid to such producer or cooperative association for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or may deduct from the uniform price(s) per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent, respectively, at the rate shown in the schedule below, according to the price range within which the 92-score Chicago butter price reported by the Department of Agriculture for the month falls:

Butter price range (cents):	*Rate (cents)*
Not more than 17.50	2
17.50 to 22.499	2½
22.50 to 27.499	3
27.50 to 32.499	3½
32.50 to 37.499	4
37.50 to 42.499	4½
42.50 to 47.499	5
47.50 to 52.499	5½
52.50 to 57.499	6
57.50 to 62.499	6½
62.50 to 67.499	7
67.50 to 72.499	7½
72.50 to 77.499	8
77.50 to 82.499	8½
82.50 to 87.499	9
87.50 to 92.499	9½
92.50 and over	10

(b) *Location differential to producers.* In making payment to producers pursuant to § 1024.80, the uniform price to be paid for producer milk and the uniform price for base milk received at a pool plant located 60 miles or more from the Court House in Evansville, Indiana, or Owensboro, Kentucky, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the loca-

tion of the pool plant where such milk was received at the following rate:

Distance from the Court House in Evansville, Ind., or Owensboro, Ky. (miles):	Rate per hundredweight (cents)
80 but less than 90	15
For each additional 10 miles or fraction thereof, an additional	1.5

§ 1024.86 *Statement to producers.* In making payments required by § 1024.80 each handler shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer including for the months of April through July, the pounds of base milk and excess milk;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1024.80 and 1024.85;

(d) The rate which is used in making the payment if such rate is more than the applicable minimum;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 1024.88, together with a description of the respective deductions; and

(f) The net amount of payment to the producer or cooperative association.

§ 1024.87 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk (including such handler's own production), (b) other source milk at his pool plant(s) classified as Class I, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1024.88 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1024.80 (b), shall deduct 8 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* 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 make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1024.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before December 1, 1951, under section 8c (15) (A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this 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 be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

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

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

APPLICATION OF PROVISIONS

§ 1024.90 *Producer-handlers.* Sections 1024.40 to 1024.45, 1024.50 to 1024.53, 1024.60 to 1024.62, 1024.70 to 1024.73, and 1024.80 to 1024.88 shall not apply to a producer-handler.

§ 1024.91 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act and whose milk is classified and priced under such other order, the provisions of this subpart shall not apply except that the handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

§ 1024.92 *Handlers operating nonpool plants.* Sections 1024.42 to 1024.45, 1024.50 to 1024.53, 1024.70 to 1024.73, 1024.80 to 1024.83, 1024.87 and 1024.88 shall not apply to a handler in his capacity as the operator of a nonpool plant, except that such handler shall pay to the market administrator on or before the 12th day after the end of each month for deposit into the producer-settlement fund an amount of money computed by multiplying the hundredweight of Class I milk disposed of from his nonpool plant(s) (except any nonpool plant subject to the classification and pricing provisions of another order issued pursuant to the Act) during the month to retail or wholesale outlets in the marketing area (including deliveries by vendors or sales through plant stores) by the rate of payment on unpriced milk calculated pursuant to § 1024.93.

§ 1024.93 *Rate of payment on unpriced milk.* The rate of payment per hundredweight on unpriced Class I milk shall be calculated as follows:

(a) For the months of March through August, subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential.

(b) For the months of September through February, subtract the uniform price to producers from the Class I price.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1024.100 *Effective time.* The provisions of this part, or any amendments to this part, shall become effective at

such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1024.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 1024.102 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1024.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handler and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1024.110 *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.

§ 1024.111 *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.

Proposed by Southern Indiana Milk Producers' Association, Inc., Holland, Indiana:

2. That the marketing area include Dubois, Crawford, Pike, and Orange counties, Indiana, in addition to the counties proposed by the Ohio Valley Milk Producers' Association.

3. That the order, if made, contain provisions for individual handler pools so that all plants having milk sales in the marketing area be fully regulated.

4. That the order, if made, establish no base price formulated as set forth in the proposal, by the Ohio Valley Milk Producers' Association, but that a seasonal price differential be used.

Proposed by Western Kentucky Cooperative Milk Producers' Association, Madisonville, Kentucky:

5. The "Ohio Valley Marketing Area" shall include all of the territory within the Counties of Daviess, Henderson, Hopkins and Hancock in the State of Kentucky, and all of the territory within the Counties of Vanderburgh, Posey, Warrick and Spencer in the State of Indiana.

6. A "pool plant" shall include a distributing plant from which not less than 50 percent of its receipts of milk from producers and from other pool plants is distributed during the month as Class I milk on routes to wholesale or retail outlets (including plant stores) and from which not less than 10 percent of such receipts is distributed as Class I milk during the month on routes to wholesale or retail outlets (including plant stores) located in the marketing area.

7. The "Class I milk price" per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month plus $1.50 during all months of the year.

8. The "Class II milk price" shall contain a proviso that the price per hundredweight computed for all producer milk classified in Class II shall not be less than the average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following milk plants, plus 20 cents per hundredweight:

Swift and Co., Russellville, Ky.
Pet Milk Co., Bowling Green, Ky.
The Borden Co., Hopkinsville, Ky.

9. Compensatory payments required to be made to the producer-settlement fund by the operator of a nonpool plant with respect to Class I sales in the marketing area may be determined, if the handler elects, by computing an amount equal to the value of milk which would be computed for the operator of a nonpool plant for milk received from dairy farmers at such plant for the month as if such handler operated a pool plant; and deduct the gross payments, exclusive of authorized deductions, made by the handler to dairy farmers with respect to the milk for which such value is computed.

10. In the classification of skim milk and butterfat shrinkage which is in excess of 2 percent shall be classified in Class I and shrinkage not in excess of 2 percent shall be allocated to Class I and Class II according to the percentages of utilization in the respective classes, and the shrinkage classified as Class II milk shall be assigned pro rata to producer milk and other source milk.

Proposed by American Dairy, Inc., Evansville, Indiana; David Benthal Dairy, Mount Vernon, Indiana; Ellsworth Brothers, Huntingburg, Indiana; Henderson Creamery Company, Henderson, Kentucky; Herrmann Dairy Company, Evansville, Indiana; Ideal Pure Milk Company, Evansville, Indiana; Model Dairy Products Company, Owensboro, Kentucky; Mount Vernon Creamery Company, Mount Vernon, Indiana; Owensboro Ice Cream and Dairy Products, Owensboro, Kentucky; and U. C. Milk Company, Madisonville, Kentucky:

11. "Ohio Valley Marketing Area" hereinafter called the "marketing area", means all the territory within the boundaries of the counties of Daviess, McLean, Muhlenberg, Union, Hopkins, Webster, Butler, Edmonson, Henderson, Hancock, Breckinridge, Grayson, and Ohio including all cities and municipalities within said boundaries, all in the State of Kentucky; and all the territory within the boundaries of the counties of Gibson, Vanderburgh, Posey, Warrick, Spencer, Perry, and Dubois, including all cities and municipalities within said boundaries all in the State of Indiana.

Proposed by Holland Custard and Ice Cream, Inc., Holland, Indiana:

12. Define the marketing area to include Gibson, Dubois, Pike, Perry and Orange counties, Indiana, in addition to the counties proposed by the Ohio Valley Milk Producers' Association.

13. That the definition of a "pool plant" as defined in the Ohio Valley Milk Producers' Associations' proposals should be amended to include any plant having Class I milk sales in the area to be established by the order.

Proposed by Beatrice Foods Company, Vincennes, Indiana:

14. Include Gibson, Pike, Dubois and Orange Counties, Indiana, in the marketing area.

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 17th day of September 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 58-7742; Filed, Sept. 22, 1958; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 657, 672, 678]

[Administrative Order 514]

VARIOUS INDUSTRIES IN PUERTO RICO

APPOINTMENT TO INVESTIGATE CONDITIONS AND RECOMMEND MINIMUM WAGES; NOTICE OF HEARING

Pursuant to authority contained in the Fair Labor Standards Act of 1938 (52

Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Reorganization Plan No. 6 of 1950 (3 CFR, 1950 Supp., p. 165), I hereby appoint, convene, and give notice of the hearings of Industry Committee No. 42–A for the Tobacco Industry in Puerto Rico; Industry Committee No. 42–B for the Stone, Clay, Glass, Cement, and Related Products Industry in Puerto Rico; and Industry Committee No. 42–C for the Construction, Business Service, Motion Picture, and Miscellaneous Industry in Puerto Rico.

Industry Committee No. 42–A is composed of the following representatives:

For the public

Jose R. Noguera, Chairman, San Juan, P. R.
Mortimer H. Gavin, St. Louis, Mo.
John F. Frederick, Muskegon, Mich.

For the employees

Edwin L. Wheatley, East Liverpool, Ohio.
Bertrand R. Seidman, Washington, D. C.
Luis G. Estades, San Juan, P. R.

For the employers

John T. Hall, East Liverpool, Ohio.
Alfons Mayer, Caguas, P. R.
Francisco Verdiales, Caguas, P. R.

For the purpose of this order, the tobacco industry in Puerto Rico is defined as follows:

The processing of leaf tobacco including, but without limitation, the grading, fermenting, stemming, chopping, packing, storing, drying, and handling of tobacco; and the manufacture of cigarettes, cigars, cheroots, little cigars, snuff, chewing tobacco, and smoking tobacco.

Industry Committee No. 42–B is composed of the following representatives:

For the public

Jose R. Noguera, Chairman, San Juan, P. R.
Mortimer H. Gavin, St. Louis, Mo.
John F. Frederick, Muskegon, Mich.

For the employees

Edwin L. Wheatley, East Liverpool, Ohio.
Bertrand R. Seidman, Washington, D. C.
Luis G. Estades, San Juan, P. R.

For the employers

John T. Hall, East Liverpool, Ohio.
E. Kenneth Koos, Vega Baja, P. R.
Martin H. Johnson, Santurce, P. R.

For the purpose of this order, the stone, clay, glass, cement, and related products industry in Puerto Rico is defined as follows:

The mining, quarrying, or other extraction and the further processing of all minerals (other than metal ores, chemical and fertilizer minerals, coal, petroleum, or natural gases) and the manufacture of products from such minerals, including, but without limitation, structural clay products, china, pottery, tile, and other ceramic products and refractories; glass and glass products (except lenses); dimension and cut stone; crushed stone, sand and gravel; hydraulic cement; abrasives; lime, concrete, gypsum, mica, plaster, and asbestos products; and the manufacture of products from bone, horn, ivory, shell, and similar natural materials: *Provided, however,* That the industry shall not include any product or activity included in the button, jewelry, and lapidary work industry (29 CFR Part 616); the chemical, petroleum, rubber, and related products industry (29 CFR Part 670); or the metal, machinery, transportation equipment, and allied products industry (29 CFR Part 604), as defined in the wage orders for these industries in Puerto Rico; or in the construction, business service, motion picture, and miscellaneous industry, as defined in this Administrative Order; and *Provided, further,* That the industry shall not include any of the activities defined and described in § 678.2 (a) of this part.

Industry Committee No. 42–C is composed of the following representatives:

For the public

Jose R. Noguera, Chairman, San Juan, P. R.
Mortimer H. Gavin, St. Louis, Mo.
John F. Frederick, Muskegon, Mich.

For the employees

Edwin L. Wheatley, East Liverpool, Ohio.
Bertrand R. Seidman, Washington, D. C.
Louis G. Estades, San Juan, P. R.

For the employers

John T. Hall, East Liverpool, Ohio.
Jorge I. Rosso, Santurce, P. R.
Eugenio L. Santoni, Hato Rey, P. R.

For the purpose of this order, the construction, business service, motion picture, and miscellaneous industry in Puerto Rico is defined as follows:

The design, construction, reconstruction, alteration, repair, and maintenance of buildings, structures, and other improvements; the assembling at the construction site and the installation of machinery and other facilities in or upon buildings, structures, and other improvements; the dismantling, wrecking, or other demolition of buildings, structures, and other improvements; the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education, or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or to the consumer; the production of photographs and blueprints, the production and distribution of motion pictures and all activities incidental thereto; and all activities which are not included in the definition of other industries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry for its own use, or any activity included in the definition of any industry in Puerto Rico for which a wage order has been issued: *And provided, further,* That the industry shall not include any of the activities defined and described in § 672.2 (a) of this part (23 F. R. 3).

I hereby refer to each of the above-named industry committees the question of the minimum wage rate or rates to be fixed under the provisions of section 6 (c) of the Act in the particular industries with which they are concerned. Each industry committee shall investigate conditions in its industry, and the committee, or any authorized sub-committee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

Industry Committee No. 42–A shall convene at 10:00 a. m. on October 20, 1958, in the office of the Wage and Hour Division, United States Department of Labor, New York Department Store Building, Fortaleza and San Jose Streets, San Juan, Puerto Rico, to conduct its investigation, and shall commence its hearing at 2:00 p. m. on the same date at the same place. Following this hearing, Industry Committees Nos. 42–B and 42–C shall convene consecutively at the same place in that order at hours designated by the committee chairmen to conduct their investigations and to hold their hearings.

In order to reach as rapidly as is economically feasible the objective of the minimum wage prescribed in paragraph (1) of section 6 (a) of the Act, each industry committee shall recommend to the Administrator the highest minimum wage rate or rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa. Where an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry, the industry committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein which will not substantially curtail employment in such classifications and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within the industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (1) Competitive conditions as affected by transportation, living, and production costs; (2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

The Administrator shall prepare an economic report for each committee containing such data as he is able to assemble pertinent to the matters herein referred to that committee. Copies of each such report may be obtained at the national and Puerto Rican offices of the United States Department of Labor as soon as they are completed and prior to

the hearings. Each committee will take official notice of the facts stated in the economic report to the extent they are not refuted at the hearings.

The procedure of these industry committees will be governed by Part 511 of Title 29, Code of Federal Regulations. As a prerequisite to participation as witnesses or parties these regulations require, among other things, that interested persons in the present matters shall file prehearing statements containing certain specified data, not later than October 10, 1958.

Signed at Washington, D. C., this 18th day of September, 1958.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 58-7759; Filed, Sept. 22, 1958; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

REDELEGATION OF AUTHORITY BY LAND OFFICE MANAGER TO CHIEFS, MINERAL AND LAND ADJUDICATION UNITS

SEPTEMBER 9, 1958.

Pursuant to authority contained in Bureau Order 541, as amended, authority is hereby redelegated to the Chief, Mineral Adjudication Unit to take action for the Manager in all matters listed in section 3.6 of Part III–A, and to the Chief, Lands Adjudication Unit in all matters listed in section 3.9 of Part III–A, to become effective immediately upon publication in the FEDERAL REGISTER. The authority delegated may not be redelegated.

NOLAN F. KEIL,
Land Office Manager,
Los Angeles Land Office.

Approved: September 15, 1958.

R. E. MCCARTHY,
Acting California
State Supervisor.

[F. R. Doc. 58-7728; Filed, Sept. 22, 1958; 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8569 et al.]

NEW YORK AIRWAYS CERTIFICATE RENEWAL CASE

NOTICE OF POSTPONEMENT OF HEARING

Notice is hereby given that the hearing in the above-entitled proceeding heretofore scheduled to be held on October 6, 1958 at New York City is postponed until January 12, 1959 before Examiner Ferdinand D. Moran. The exact time and place are to be announced at a later date.

Dated at Washington, D. C., September 18, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-7767; Filed, Sept. 22, 1958; 8:53 a. m.]

DEVELOPMENT LOAN FUND

ORGANIZATIONAL STATEMENT

Creation and authority. The Development Loan Fund was first authorized by Title II, of the Mutual Security Act of 1954, as amended in 1957 (22 U. S. C. Sec. 1870) as part of the International Cooperation Administration. In 1958 the DLF was incorporated as an independent Government corporation by the Mutual Security Act of 1958 (72 Stat. 262).

Organization. The Fund is a wholly-owned Government corporation with management vested in a five-man Board of Directors consisting of the Under Secretary of State for Economic Affairs, who is chairman, the Director of the International Cooperation Administration, the Chairman of the Board of Directors of the Export-Import Bank, the Managing Director of the Fund, and the United States Executive Director of the International Bank for Reconstruction and Development. The Board carries out its functions subject to the foreign policy guidance of the Secretary of State.

Capitalization. Three Hundred Million Dollars ($300,000,000) was appropriated to capitalize the Fund in fiscal 1958 and an additional appropriation of Four Hundred Million Dollars ($400,000,000) for this purpose has been added in fiscal 1959, of which One Million Two Hundred and Fifty Thousand Dollars ($1,250,000) is available for administrative expenses of the Fund.

Purpose. The purpose of the Fund is to promote the development of underdeveloped free nations. To be eligible for Fund financing a project must contribute to the economic growth of the country in which it is located, must be economically sound and technically feasible, must not have any undue adverse effect on the economy of the United States, and must present reasonable prospects of repayment. The Fund will not finance a project which can obtain financing on reasonable terms from other free world sources.

The Fund's charter expresses the policy of Congress that the Fund shall be administered so as to support and encourage private investment and other private participation furthering development, and shall be administered so as not to compete with private investment capital, the Export-Import Bank or the International Bank for Reconstruction and Development.

DEMPSTER MCINTOSH,
Managing Director.

[F. R. Doc. 58-7760; Filed, Sept. 22, 1958; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 1178, etc.; FCC 58-873]

JAMES W. MILLER ET AL.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re applications of James W. Miller, Milford, Connecticut; Docket No. 11788, File No. BP-10500; Orange County Broadcasting Corporation (WGNY), Newburgh, New York; Docket No. 12411, File No. BP-11635; Vincent De Laurentis, Hamden, Connecticut; Docket No. 12412, File No. BP-11607; Albert L. Capstaff, tr/as EASTERN STATES BROADCASTING CO. Hamden, Connecticut; Docket No. 12413, File No. BP-11760; for construction permits.

1. The Commission has under consideration (1) Petition to Enlarge Issues filed June 3, 1958 by Alfred L. Capstaff, tr/as Eastern States Broadcasting Company; (2) Statement in Support of Petition to Enlarge Issues filed June 26, 1958 by the Commision's Broadcast Bureau; (3) Comments in Support of Petition to Enlarge Issues filed June 26, 1958 by Vincent De Laurentis; (4) Opposition to Petition to Enlarge Issues filed June 26, 1958 by James W. Miller; and (5) Reply to Opposition to Petition to Enlarge Issues filed July 7, 1958 by Albert L. Capstaff, tr/as Eastern States Broadcasting Company.

2. Petitioner, Eastern States, applicant for a construction permit for a new standard broadcast station (1220 kc, 1 kw, daytime) at Hamden, Connecticut, requests an enlargement of issues with respect to James W. Miller, applicant for similar facilities at Milford, Connecticut.

3. Eastern States requests the addition of the following issue: "To determine whether James W. Miller has engaged in trafficking in broadcast authorizations and, if so, whether he is thereby disqualified from receiving a grant herein."

4. Petitioner refers to four specific instances in which it is alleged that Miller participated in the transfer, sale or other disposition of construction permits or station licenses under circumstances sufficiently indicative of "trafficking"[1] in broadcast authorizations to warrant a hearing with respect to his basic qualifications to receive a grant in this proceeding. The four specific standard broadcast authorizations to which reference is made are as follows: (1) South Bridge; (2) Orange; (3) Great Barrington; and (4) Milford; all of the above communities are located in Massachusetts.

5. It appears, from the allegations of petitioner, that Miller, after obtaining construction permits for authorizations at South Bridge and Milford, assigned

[1] In American Television Co., Inc., 12 RR 1433, the Commission defined "trafficking" as the acquisition of a construction permit or license with the view of disposing of the license to another immediately or after holding it for a period of time and held that there was no trafficking where the assignors had intended to construct and operate the proposed station at the time they received the grant and did not acquire it for the purpose of reselling it at a profit.

the same within a period of three months thereafter for the purpose of making a profit. In the case of Orange, it appears that Miller assigned the station license within a period of three months after the station went on the air.

6. De Laurentis and the Broadcast Bureau support the Petition to Enlarge Issues. They both assert that the facts outlined in the petition raise a substantial question as to whether Miller has engaged in the trafficking of broadcast licenses thereby affecting his qualifications to receive a grant in this proceeding.

7. In his opposition to the petition, Miller sets forth, in considerable detail, the circumstances surrounding the disposition of the authorizations referred to in Eastern's petition. He maintains that the various transfers or assignments were prompted by compelling business reasons or to make it possible for other persons to participate in station ownership and management.

8. In the Commission's judgment, sufficient facts have been alleged to justify enlarging the issues. Enlargement, of course, does not constitute rejection of Miller's explanation, but rather is a recognition that a full evidentiary development of the facts and circumstances is necessary to a proper disposition of the trafficking question.

Accordingly, it is ordered, This 17th day of September 1958, that the Petition for Enlargement of Issues filed June 3, 1958, by Alfred L. Capstaff, tr/as Eastern States Broadcasting Company, is granted;

It is further ordered, That Issue No. 7 in our May 13, 1958, Order of Designation (FCC 58-420) is renumbered Issue No. 8 and the additional Issue No. 7 is ordered to read as follows: "To determine whether James W. Miller has engaged in trafficking in broadcast authorizations and, if so, whether he is thereby disqualified from receiving a grant herein."

Released: September 18, 1958.

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

[F. R. Doc. 58-7768; Filed, Sept. 22, 1958; 8:53 a. m.]

[Docket Nos. 11925, 11926; FCC 58-877]

NORTHWEST BROADCASTERS, INC., AND HALDANE JAMES DUFF

ORDER AMENDING ISSUES

In re applications of Northwest Broadcasters, Inc., Bellevue, Washington; Docket No. 11925, File No. BP-10521; Rev. Haldane James Duff, Seattle, Washington; Docket No. 11926, File No. BP-10638; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 17th day of September 1958;

The Commission having under consideration (1) the matters of record in the above-described proceeding involving the mutually exclusive applications for construction permits to establish standard broadcast stations of Northwest Broadcasters, Inc., and the Reverend Haldane James Duff; (2) the initial decision herein of Examiner Millard F. French, proposing a grant of the application of Northwest Broadcasters; and (3) the exceptions to the initial decision filed by Reverend Duff, Northwest Broadcasters, and the Commission's Broadcast Bureau;

It appearing that prior to the issuance of a decision herein, it is necessary that additional information be adduced which will permit a determination as to whether the city of Bellevue is a separate community, as contemplated by section 307 (b) of the Communications Act, or whether, because of its location and urban and industrial characteristics, Bellevue is an integral part of the city of Seattle; and

It further appearing that, therefore, the issues herein must be appropriately enlarged to inquire into this matter and into other questions related thereto, and that the applications of Northwest Broadcasters, Inc., and Rev. Haldane James Duff must be remanded to the Hearing Examiner for hearing under the enlarged issues and for the preparation of a supplemental initial decision;

Accordingly, it is ordered, That the above-described applications of Northwest Broadcasters, Inc., and Rev. Haldane James Duff are remanded to the Hearing Examiner for further hearing under the added issues as set forth below, and for the preparation of a supplemental initial decision; and

It is further ordered, That, existing issue No. 3 is amended and renumbered issue No. 5; existing issue No. 4 is renumbered issue No. 3; existing issue No. 5 is renumbered issue No. 7; the issues herein are amended by the addition of new issues 4, 6 (a), 6 (b) and 6 (c); and that the issues in the above-entitled proceeding are amended to read 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, because of the interference which would be received by the proposed operation of the Reverend Haldane James Duff, his proposed operation would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved, whether circumstances exist which would warrant a waiver of said section of the rules.

3. To determine the financial qualifications of the applicant, Reverend Haldane James Duff, to construct and operate the station as proposed.

4. To determine whether the city of Bellevue is a separate community, as contemplated by section 307 (b) of the Communications Act, or whether, because of its location and urban and industrial characteristics, Belleveue is an integral part of the city of Seattle.

5. In the event that it is concluded that Bellevue is a separate community, 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.

6. In the event that it is concluded that Bellevue is an integral part of the city of Seattle:

(a) To determine whether the operation proposed by Northwest Broadcasters, Inc., would adequately serve the city of Seattle in accordance with the provisions of § 3.188 (a) (1), (b) (1) and (2) of the rules.

(b) To determine whether, because of the interference received, the operation proposed by Northwest Broadcasters, Inc., would comply with the provisions of § 3.28 (c) of the Commission's rules, and if compliance is not achieved, whether circumstances exist which would warrant a waiver of said section of the rules.

(c) To determine on a comparative basis which of the operations proposed by Northwest Broadcasters, Inc., and the Reverend Haldane James Duff would better serve the public interest, convenience and necessity in the light of the evidence adduced herein and the record made with respect to the significant differences between the said two applicants as to:

(i) The background and experience of each having a bearing on its ability to own and operate the proposed standard broadcast station.

(ii) The proposals of each with respect to the management and operation of the proposed station.

(iii) The programming services proposed in each of the said applications.

7. To determine in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

Released: September 18, 1958.

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

[F. R. Doc. 58-7769; Filed, Sept. 22, 1958; 8:53 a. m.]

[Docket Nos. 12427, 12428; FCC 58M-1009]

ELECTRONIC MUSIC CO. AND WSBC BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of John Englebrecht and Stephen A. Cisler, d/b as Electronic Music Company, Chicago, Illinois; Docket No. 12427, File No. BPH-2342; WSBC Broadcasting Company, Chicago, Illinois; Docket No. 12428, File No. BPH-2359; for construction permits.

Pursuant to the pre-hearing conference held on this date in the above-entitled proceeding, and with the concurrence of all counsel; *It is ordered*, This 17th day of September, 1958, that the exchange of exhibits in the affirma-

tive case will be on October 20, 1958; a further pre-hearing conference will be held on November 5, 1958; and the formal hearing herein, which is presently scheduled for September 29, 1958, will be continued to December 2, 1958, at 10 o'clock a. m. in the offices of the Commission, Washington, D. C.

Released: September 18, 1958.

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

[F. R. Doc. 58-7770; Filed, Sept. 22, 1958; 8:53 a. m.]

[Docket No. 12581; FCC 58M-1008]

WESTMINSTER BROADCASTING CO. (WCME)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Westminster Broadcasting Company (WCME), Brunswick, Maine; Docket No. 12581, File No. BP-11402; for construction permit.

It is ordered, This 17th day of September 1958, that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 2:00 o'clock p. m., on Wednesday, October 1, 1958, in the offices of the Commission, Washington, D. C.

Released: September 17, 1958.

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

[F. R. Doc. 58-7771; Filed, Sept. 22, 1958; 8:53 a. m.]

[FCC 58-890]

COMPOSITE WEEK FOR PROGRAM LOG ANALYSIS

SEPTEMBER 18, 1958.

The Federal Communications Commission announces that the following dates will constitute the composite week for the preparation of program log analyses in connection with renewal applications of all AM, FM, and TV broadcast stations whose licenses expire in 1959. Attention is directed to the fact that the date for Sunday is in the year 1957, whereas, all other dates are in the year 1958.

Monday	January	20, 1958
Tuesday	March	18, 1958
Wednesday	April	9, 1958
Thursday	May	15, 1958
Friday	July	25, 1958
Saturday	September	13, 1958
Sunday	November	17, 1957

The attention of licensees is also directed to section IV, page 3, Item 10, of the renewal application which permits the submission of any additional program data that the applicant desires to call to the Commission's attention, if, in the applicant's opinion, the statistics based on the composite week do not adequately reflect the program service rendered.

Adopted: September 17, 1958.

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

[F. R. Doc. 58-7772; Filed, Sept. 22, 1958; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-14276]

REPUBLIC NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 16, 1958.

Take notice that Republic Natural Gas Company (Applicant), a Delaware corporation with a principal office in Dallas, Texas, filed an application in Docket No. G-14276 on January 16, 1958 pursuant to section 7 of the Natural Gas Act for permission and approval to abandon service to Gas Gathering Company (Gas Gathering) due to failure of gas production from the E. C. Merseberger Lease located in the East Mathis Field, San Patricio County, Texas, subject to the jurisdiction of the Commission, as more fully described in the application on file with the Commission, and open for public inspection.

The application recites that the service proposed to be abandoned is covered by a gas sales contract dated August 7, 1953, as amended, on file with the Commission as Applicant's FPC Gas Rate Schedule No. 2, as supplemented. Applicant was authorized on April 24, 1956 in Docket No. G-7638 to sell its gas from the Merseberger No. 1 well to Gas Gathering in addition to gas from the other wells in the field.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission, by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 30, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7729; Filed, Sept. 22, 1958; 8:46 a. m.]

[Docket No. G-15911]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 16, 1958.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation with principal place of business at 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. G-15911 on August 12, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate, as an integral part of its existing natural-gas system, a side tap and a measuring and regulating station to deliver interruptible gas to Central Electric and Gas Company (Central Electric), an existing customer, for resale to the Behlen Manufacturing Company (Behlen) in Platte County, Nebraska. The proposed facilities will be located on Applicant's 8-inch line in Platte County, near Columbus, Nebraska, and are estimated to cost about $2,760 for which Central Electric will reimburse Applicant.

Central Electric will construct, own and operate the necessary lateral facilities extending from the plant to the outlet of Applicant's measuring station. Annual sales to Behlen are estimated at 9,870 Mcf and maximum daily requirements are estimated at 130 Mcf. Behlen will use the gas for space heating on an interruptible basis and deliveries will be curtailed under Step 6 in accordance with the provisions of Applicant's effective FPC Gas Tariff. Behlen will have dual fuel-burning equipment and will use propane as its standby fuel.

Applicant estimates that the requested facilities can be constructed and placed in operation within thirty days after authorization is received. The application states that the proposed sale of gas to Behlen will not result in any increase in contract demand or system salable capacity, nor will it adversely affect Applicant's ability to serve the firm requirements of its utility customers.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections

7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 21, 1958, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 9, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7730; Filed, Sept. 22, 1958; 8:46 a. m.]

[Docket No. G-16250]

SOUTHWEST GAS PRODUCING CO., INC., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 16, 1958.

Southwest Gas Producing Company, Inc., et al. (Southwest), on August 27, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 26, 1958.

Purchaser: Mississippi River Fuel Corporation.

Rate schedule designation: Supplement No. 4 to Southwest's FPC Gas Rate Schedule No. 2.

Effective date: October 1, 1958 (effective date is the effective date proposed by Southwest).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

This suspension, however, is based solely on the possibility of the additional tax being invalidated and that only such tax reimbursement shall be made effective subject to refund.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Southwest's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Southwest's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7731; Filed, Sept. 22, 1958; 8:47 a. m.]

[Docket No. G-16251]

MIDSTATES OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 16, 1958.

Midstates Oil Corporation (Midstates) on August 26, 1958, tendered for filing proposed changes in its presently effective rate schedules [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated August 25, 1958.

Purchaser: Arkansas Louisiana Gas Company.

Rate schedule designation: Supplement No. 5 to Midstates' FPC Gas Rate Schedule No. 3; Supplement No. 6 to Midstates' FPC Gas Rate Schedule No. 5.

Effective date: October 1, 1958 (effective date is the effective date proposed by Midstates).

The increased rates and charges so proposed are intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rates and charges.

These suspensions, however, are based solely on the possibility of the additional tax being invalidated and that only such tax reimbursement shall be made effective subject to refund.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 5 to Midstates' FPC Gas Rate Schedule No. 3, and Supplement No. 6 to Midstates' FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 5 to Midstates' FPC Gas Rate Schedule No. 3, and Supplement No. 6 to Midstates' FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until October 2, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

[1] Supplement No. 3 to Southwest's FPC Gas Rate Schedule No. 2 (Louisiana gathering tax increase), was suspended for 1 day until August 2, 1958, in Docket No. G-15663, and is now in effect subject to refund.

[1] Supplement No. 4 to Midstates' FPC Gas Rate Schedule No. 3, and Supplement No. 5 to Midstates' FPC Gas Rate Schedule No. 5 (Louisiana gathering tax increases), were suspended for 1 day until August 2, 1958, in Docket No. G-15567, and are now in effect subject to refund.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7732; Filed, Sept. 22, 1958; 8:47 a. m.]

[Docket No. G-16252]

OHIO OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 16, 1958.

The Ohio Oil Company, (Operator), et al., (Ohio Oil), on August 26, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Arkansas Louisiana Gas Company.
Rate schedule designation: Supplement No. 7 to Ohio Oil's FPC Gas Rate Schedule No. 20.
Effective date: October 1, 1958 (effective date is the effective date proposed by Ohio Oil).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

This suspension, however, is based solely on the possibility of the additional tax being invalidated and that only such tax reimbursement shall be made effective subject to refund.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Ohio Oil's FPS Gas Rate Schedule No. 20 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Ohio Oil's FPC Gas Rate Schedule No. 20.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7733; Filed, Sept. 22, 1958; 8:47 a. m.]

[1] Supplement No. 6 to Ohio Oil's FPC Gas Rate Schedule No. 20 (Louisiana gathering tax increase), was suspended for 1 day until August 2, 1958, in Docket No. G-15606, and is now in effect subject to refund.

[Project No. 1888]

METROPOLITAN EDISON CO.

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE

SEPTEMBER 16, 1958.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by Metropolitan Edison Company, of Reading, Pennsylvania, licensee for Project No. 1888, known as York Haven Project, located on the Susquehanna River in Dauphin, Lancaster, and York Counties, Pennsylvania, affecting navigable waters of the United States for amendment of its license for the project. The license was issued on September 30, 1949, for a period effective January 1, 1938, and terminating June 30, 1970. Licensee requests (1) that its license be amended so that the same shall run from a date not earlier than September 1, 1949, for a full period of 50 years; (2) that its license be amended in such other respects as may be appropriate to conform to the new license period requested by the Licensee; and (3) that the Licensee be given credit against future annual license fee payments for amounts which the Licensee paid by way of license fees prior to the new effective date of the license requested by the Licensee.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is October 31, 1958. The application is on file with the Commission for public inspection.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7734; Filed, Sept. 22, 1958; 8:47 a. m.]

[Project No. 1892]

NEW ENGLAND POWER CO.

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE

SEPTEMBER 16, 1958.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by New England Power Company, of Boston, Massachusetts, licensee for Project No. 1892, known as Wilder Project, located on the Connecticut River in Windsor and Orange Counties, Vermont, and Grafton County, New Hampshire, affecting navigable waters of the United States, for amendment of its license for the project. Licensee seeks to amend the license (1) by changing the commencement of the license period from January 1, 1938 to June 19, 1947 and by changing the termination date from June 30, 1970 to June 18, 1997; (2) by including the amortization reserve provisions described at 16 F. P. C. 1125-1126; (3) by revising the original cost provisions; and (4) by revising provisions relating to removal of obsolete structures.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is October 31, 1958. The application is on file with the Commission for public inspection.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7735; Filed, Sept. 22, 1958; 8:47 a. m.]

[Docket Nos. G-10591, G-15320]

MID-SOUTH GAS CO. AND TEXAS GAS TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 18, 1958.

In the matters of Mid-South Gas Company, Docket No. G-10591; Texas Gas Transmission Corporation, Docket No. G-15320.

Take notice that Texas Gas Transmission Corporation (Texas Gas), a Delaware corporation with its principal place of business in Owensboro, Kentucky, filed on June 30, 1958, as supplemented on July 17 and August 4, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction, installation and operation of certain facilities and the sale of natural gas, as hereinafter

described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Texas Gas proposes to increase the contract demands for firm service to its existing customers for the winters 1958–59 and 1959–60.

Texas Gas proposes to construct and operate the following mainline facilities:

(1) Approximately 92.03 miles of 30-inch loop segments at several locations principally in Louisiana, but also in Arkansas and Mississippi.

(2) Approximately 34.28 miles of 26-inch and smaller diameter loop line in Kentucky, Indiana, and Illinois.

(3) An additional 2,000 horsepower unit at the existing Pineville, Louisiana, station; an additional 1,320 horsepower unit each at the existing Kenton, Tennessee; Slaughters, Kentucky; and Dillsboro, Indiana, stations; two 1,320 horsepower units at the existing Calvert City, Kentucky, station; and an additional 440 horsepower unit at the existing Petersburg, Indiana, station.

(4) A new compressor station at Dixie, Kentucky, to consist of three 600 horsepower units relocated from the existing Guthrie, Louisiana, station.

(5) Scrubbers and other miscellaneous additions to existing compressor stations.

In addition to the mainline facilities as described, Texas Gas proposes to expand its existing storage facilities at the Oaktown and Alford fields in Indiana and the Dixie and Hickory School fields in Kentucky principally by reconditioning existing storage wells, and enlarging the gathering systems.

Included in the facilities required at the Wilfred field is a 700 horsepower compressor unit and 3 miles of 12" lateral line.

The total overall cost of the proposed project is $20,169,638. The immediate cost of construction of the proposed facilities will be accomplished by 4 percent short term bank loans. The permanent financing is to be accomplished through a $17,000,000 bond issue in the latter part of 1959, at an anticipated 4¾ percent interest rate, with the balance of money to be obtained through retained earnings.

By means of the proposed facilities, Texas Gas' system sales capacity is estimated to be increaed by 133,700 Mcf per day. Of this capacity, 113,200 Mcf per day has been contracted for. The remaining volume of 20,500 Mcf per day will be used to meet increasing demands as they develop.

In Docket No. G–10591, Mid-South requests amendment of its certificate of public convenience and necessity issued on October 23, 1956, in said docket to authorize the transportation of an additional 3,000 Mcf per day for Arkansas-Missouri Power Company, making a total of 8,000 Mcf per day.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 20, 1958 at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 7, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58–7761; Filed, Sept. 22, 1958; 8:52 a. m.]

[Docket No. G–15824]

UNITED GAS PIPE LINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 17, 1958.

Take notice that United Gas Pipe Line Company (Applicant), a Delaware corporation with its principal place of business in Shreveport, Louisiana, filed an application on August 5, 1958, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of natural gas facilities as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant by its budget-type application filed pursuant to the Commission's order No. 185, seeks authority to construct and operate certain unspecified field facilities to enable it to take into its certificated main pipeline system natural gas which it will purchase during the year 1959 from producers in the general area of its existing transmission system.

The application states that the authorization sought herein will eliminate numerous certificate filings by Applicant during 1959 for the sole purpose of installing minor facilities to attach new supplies of gas to its system where expansions of its main transmission facilities are not involved.

Applicant estimates that the total cost of all facilities proposed will not be in excess of $3 million and the total cost of any single project will be limited to a maximum of $400,000.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 28, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 17, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58–7762; Filed, Sept. 22, 1958; 8:52 a. m.]

[Docket No. G–16256]

AMERADA PETROLEUM CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 17, 1958.

Amerada Petroleum Corporation (Amerada) on August 18, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notice of Change, dated August 11, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 9 to Amerada's FPC Gas Rate Schedule No. 4.

Effective date: September 18, 1958 (effective date is the effective date proposed by Amerada).

In support of the proposed redetermined rate increases Amerada cites the "favored-nation" clause of the price section of its contract with El Paso.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] These rates are presently in effect subject to refund in Docket No. G–13897.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 9 to Amerada's FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 9, to Amerada's FPC Gas Rate Schedule No. 4.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until February 18, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7763; Filed, Sept. 22, 1958; 8:52 a. m.]

[Docket No. G-16253]

SUN OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

SEPTEMBER 17, 1958.

Sun Oil Company (Operator), et al. (Sun) on August 19, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 15, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 4 to Sun's FPC Gas Rate Schedule No. 80.

Effective date: September 19, 1958 (effective date is the effective date proposed by Sun).

In support of the proposed redetermined rate increase, Sun cites the "favored-nation" provision of the pricing section of its contract, states that the aforementioned provision of the contract was arrived at by arm's-length bargaining, and that it is an integral part of the considerations upon which the contract is based.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Sun's FPC Gas Rate Schedule No. 80 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increase rate and charge contained in Supplement No. 4 to Sun's FPC Gas Rate Schedule No. 80.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until February 19, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7765; Filed, Sept. 22, 1958; 8:53 a. m.]

[Docket No. G-16257]

SUN OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 17, 1958.

Sun Oil Company (Sun) on August 19, 1958, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated August 15, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 11 to Sun's FPC Gas Rate Schedule No. 58; Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 61; Supplement No. 3 to Sun's FPC Gas Rate Schedule No. 65; Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 1; Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 30.

Effective date: September 19, 1958 (effective date is the effective date proposed by Sun).

In support of the proposed redetermined rate increases, Sun cites the "favored-nation" provisions of the pricing sections of its contracts, states that the aforementioned provisions of the contracts were arrived at by arm's length bargaining, and that they are an integral part of its considerations upon which the contracts are based.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 11 to Sun's FPC Gas Rate Schedule No. 58, Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 61, Supplement No. 3 to Sun's FPC Gas Rate Schedule No. 65, Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 1, and Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 30 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 11 to Sun's FPC Gas Rate Schedule No. 58, Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 61, Supplement No. 3 to Sun's FPC Gas Rate Schedule No. 65, Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 1, and Supplement No. 5 to Sun's FPC Gas Rate Schedule No. 30.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until February 19, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7764; Filed, Sept. 22, 1958; 8:53 a. m.]

[1] These rates are presently in effect subject to refund in Docket Nos. G-12880 and G-12841.

GENERAL SERVICES ADMINISTRATION

Report of Purchases Under Domestic Purchase Regulations

Report of purchases under Domestic Purchase Regulations (Defense Production Act and Public Law 206, 83d Congress).

June 30, 1958.

Regulation	Termination date	Unit	Program limitation (quantity)	Purchases [1] during quarter		Cumulative purchases [1] through end of quarter	
				Quantity	Amount	Quantity	Amount
Asbestos	Oct. 1, 1957	Short tons, crude No. 1 and/or crude No. 2 asbestos	1,500	0	0	1,499	$1,702,505.00
		Short tons, crude No. 3		0	0	850	340,070.05
Beryl	June 30, 1962	Short dry tons, beryl ore	4,500	95	$54,006.45	1,948	1,075,771.90
Chrome	June 30, 1959	Long dry tons, chrome ore and/or chrome concentrates	200,000	12,456	249,475.48	197,444	18,359,081.35
Columbium tantalum	Dec. 31, 1958	Pounds, contained combined pentoxide	15,000,000	[2] (16,255)	[2] 390.38	15,567,912	60,637,261.87
Manganese:							
Butte-Phillipsburg	June 30, 1958	Long ton units, recoverable manganese	6,000,000	271,518	550,515.46	6,017,434	9,078,580.62
Deming	June 30, 1958	do	6,000,000	0	0	6,215,258	12,036,388.37
Weeden	June 30, 1958	do	6,000,000	0	0	6,168,316	10,743,179.21
Domestic small producers	Jan. 1, 1961	Long ton units, contained manganese	28,000,000	1,428,319	3,759,670.05	19,356,620	49,046,759.20
Mercury:							
Domestic	Dec. 31, 1957	Flasks, prime virgin mercury	125,000	832	187,200.00	9,428	2,121,300.00
Do	Dec. 31, 1958	do	[3] 30,000	4,006	1,036,350.00	7,332	1,649,700.00
Mexican	Dec. 31, 1957	do	75,000	0	0	766	172,317.39
Do	Dec. 31, 1958	do	[3] 20,000	287	71,076.89	1,387	318,571.52
Mica	June 30, 1962	Short tons, hand-cobbed mica or equivalent	25,000	805	710,605.02	14,423	14,669,434.23
Tungsten	July 1, 1958	Short ton units, tungsten trioxide	3,000,000	0	0	2,996,280	189,212,704.62

[1] Quantities represent deliveries. [2] Inventory adjustments. [3] Extension of prior limitation.

Dated: September 17, 1958.

Edward K. Mills, Jr.,
Acting Administrator.

[F. R. Doc. 58-7738; Filed, Sept. 22, 1958; 8:48 a. m.]

Report of Purchases Under Domestic Purchase Regulations

Report of purchases under Domestic Purchase Regulation (operating on delegation or authority by Department of Interior under P. L. 733, 84th Congress).

June 30, 1958.

Commodity	Termination date of program	Unit of measure	Total limitation	Interim limitation	Purchases			
					Fiscal year to date		Inception to date	
					Quantity	Cost [1]	Quantity	Cost [1]
Asbestos	Dec. 31, 1958	Short tons, crude No. 1 and No. 2	2,000	2,000	825	$999,350.70	1,333	$1,607,036.70
		Short tons, crude No. 3	2,000	1,838	463	184,274.00	815	325,734.00
Columbium tantalum	do	Pounds, contained combined pentoxide	250,000	59,810	48,996	195,107.00	49,380	195,810.16
Fluorspar	do	Short tons, acid grade	250,000	135,185	65,896	3,550,999.41	94,012	5,065,036.93
Tungsten	do	Short ton units, tungsten trioxide	1,250,000	293,584	0	0	283,463	15,537,920.91

[1] Material cost.

Dated: September 17, 1958.

Edward K. Mills, Jr.,
Acting Administrator.

[F. R. Doc. 58-7739; Filed, Sept. 22, 1958; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

Fourth Section Applications for Relief

September 15, 1958.

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. 34971: *Substitution service—Rail for motor—Chicago and Eastern Illinois Railroad Company, etc.* Filed by Household Goods Carriers Bureau, Agent, (No. 16), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars in substituted service between specified substitution points served by the Chicago and Eastern Illinois Railroad Company, The Pennsylvania Railroad Company, Missouri-Kansas-Texas Railroad Company, and the Missouri-Kansas-Texas Railroad Company of Texas.

Grounds for relief: Motor truck competition.

Tariff: Supplement 6 to Household Goods Carriers Bureau tariff MF-I. C. C. 77.

FSA No. 34972: *Petroleum pentane and petroleum iso-pentane to points in Kansas.* Filed by Western Trunk Line Committee, Agent, (No. A-2016), for interested rail carriers. Rates on petroleum iso-pentane and petroleum pentane, in tank-car loads from points in Kansas and Missouri to points in Kansas.

Grounds for relief: Rates constructed on the basis of a mileage scale.

FSA No. 34973: *Sugar—Southern points to points in Illinois and Iowa.* Filed by O. W. South, Jr., Agent (SFA No. A3731), for interested rail carriers. Rates on sugar, carloads from specified points in Alabama, Florida, Louisiana, and Mississippi to Rock Island, Ill., Burlington, Clinton, Davenport, Dubuque, Fort Madison, and Muscatine, Iowa.

Grounds for relief: Market competition with Colorado producing points.

Tariff: Supplement 74 to Southern Freight Association tariff I. C. C. 434.

FSA No. 34974: *Sand—Official territory to the south.* Filed by O. E. Schultz, Agent (ER No. 2460), for interested rail carriers. Rates on sand, carloads, as described in the application from specified points in Illinois, Indiana, Iowa, Mary-

land, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin to destinations in southern territory.

Grounds for relief: Short-line distance formula, grouping, short-line, and Florida arbitraries.

Tariff: Supplement 6 to Trunk Line-Central Territory Railroads tariff I. C. C. 4797.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-7745; Filed, Sept. 22, 1958; 8:49 a. m.]

[Notice 27]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 18, 1958.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61153. By order of September 16, 1958, The Transfer Board approved the transfer to Glen V. Brubaker and Gerald B. Tweed, a Partnership, doing business as Cargo Carriers, San Diego, California, of Certificates Nos. MC 38673 and MC 38673 Sub 5, issued June 30, 1944, and September 9, 1952, respectively, to Ralph E. Sorkness, doing business as Sorkness Truck Lines, San Diego, California, authorizing transportation, over irregular routes, of specified commodities and general commodities, excluding household goods and other specified commodities, between designated points in California, and of liquid carbon dioxide, in bulk, in tank vehicles, from Niland, Calif., and Greeley, Colo., to points in California, Oregon, Washington, Montana, Idaho, Wyoming, Utah, Nevada, Colorado, Arizona, and New Mexico, and from Agnew, Calif., to points in Oregon, Washington, Idaho, and Montana, and solidified carbon dioxide, from Niland, Calif., to points in Arizona, Nevada, and New Mexico, and to the boundary of United States and Mexico at Calexico and San Ysidro, Calif. T. A. L. Loretz, 108 West Sixth Street, Los Angeles 14, California, for applicants.

No. MC-FC 61352. By order of September 16, 1958, the Transfer Board approved the transfer to John McKenna, doing business as McKenna Motor Express, Little Falls, N. J., of permit in No. MC 60021, issued July 31, 1958, to Albert G. Hopkinson, doing business as White Star Trucking, Paterson, N. J., authorizing the transportation of: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials and supplies* used in the conduct of such business, and, *fruits, vegetables, farm products, poultry,* and *sea food,* in the respective seasons of their production between points in a specified territory in New Jersey, New York, and Pennsylvania. John M. Zachara, Post Office Box 2860, Paterson 28, N. J., for applicants.

No. MC-FC 61398. By order of September 16, 1958, the Transfer Board approved the transfer to Orofino Motor Freight, Inc., Lewiston, Idaho, of certificates Nos. MC 114119 and MC 114119 Sub 2, issued August 13, 1953 and April 22, 1957, respectively, to C. R. Pingree and C. L. Avery, a partnership, doing business as Star Motor Freight, Lewiston, Idaho, authorizing the transportation of: *General commodities,* with the usual exceptions, including household goods, between Lewiston, Idaho, and Grangeville and Stites, Idaho, serving all intermediate points; between Lewiston, Idaho, and junction Idaho Highways 14 and 13 serving certain intermediate points, and, serving the site of the U. S. Army Radar Station near Cottonwood, Idaho, as an off-route point in connection with the regular route operation between Lewiston, Idaho, and Grangeville and Stites, Idaho. Reed Clements, Weisgerber Building, Lewiston, Idaho, for applicants.

No. MC-FC 61405. By order of September 16, 1958, the Transfer Board approved the transfer to Alfred W. Packer, doing business as Packer Transfer, Princeton, N. J., of certificate in No. MC 92624, issued September 21, 1948, to Evan M. Thomson, doing business as Thomson's Express and Storage, Princeton, N. J., authorizing the transportation of: *Household goods,* as defined by the Commission, between Princeton, N. J., and points within 10 miles of Princeton, on the one hand, and, on the other, points in Delaware, Maryland, New York, Pennsylvania, and the District of Columbia. Harvey S. Moore, Jr., 245 Nassau Street, Princeton, N. J., for applicants.

No. MC-FC 61426. By order of September 16, 1958, the Transfer Board approved the transfer to Elroy Francis Cronin, doing business as Cronin-Joyce Express, Malden, Mass., of Certificate No. MC 6051, issued June 9, 1958, to John F. Cronin, doing business as Cronin-Joyce Express, Malden, Mass., authorizing the transportation of: *Toy novelties, cushion pads, woolen sweaters, drugs,* and *spices,* in truckload lots only, from Medford and Malden, Mass., to New York, N. Y.; *Silk rayon, electric cable,* and *canned goods,* in truckload lots only, from New York, N. Y., to Malden and Boston, Mass.; *woolen yarn,* in truckload lots only, from Malden, Mass., to Phenix and Providence, R. I., and from Passaic, N. J., to Boston, Mass.; *Cloth shoddy,* in truckload lots only, from Malden, Mass., to Phenix and Providence, R. I. Elroy Francis Cronin, 68 Florence Street, Malden 48, Mass., for applicants.

No. MC-FC 61435. By order of September 16, 1958, The Transfer Board approved the transfer to Burcham Trucking Service, Inc., Millville, New Jersey, of certificate No. MC 102698, issued October 25, 1949, to Russell M. Burcham, doing business as Burcham's Trucking Service, Millville, New Jersey, authorizing the transportation of agricultural commodities, from points in Cumberland County, N. J., to Baltimore, Md., Washington, D. C., New York, N. Y., Philadelphia, Wilkes-Barre, Scranton, Johnstown, and Pittsburgh, Pa., Providence, R. I., Hartford, Conn., Boston, Mass., and Newark, Del.; fertilizer, from Bridgeton, N. J., to Harrisburg, Pa., glass containers, from Bridgeton, N. J., to Bridgeport, Conn., Baltimore, Md., Philadelphia, Pa., and New York, N. Y., canned goods, from Bridgeton, N. J., to Philadelphia, Pa., and New York, N. Y., oysters, from Port Norris, N. J., to Baltimore, Md., fertilizer and fertilizer materials, from Baltimore, Md., Philadelphia, Pa., and New York, N. Y. to Bridgeton, N. J., empty baskets and crates, from New York, N. Y., to Salisbury, Md., to Bridgeton, N. J., peat-moss, from Philadelphia, Pa., to Bridgeton, N. J., coal, from Pottsville, Pa., to Bridgeton, N. J., and sand, from Manumuskin and Millville, N. J., to points in New Castle County, Del., those in specified portions of Pennsylvania and Maryland. Robert H. Shertz, 811 Lewis Tower Building, 225 South Fifteenth Street, Philadelphia 2, Pa., for applicants.

No. MC-FC 61436. By order of September 16, 1958, The Transfer Board approved the transfer to Southern Express Terminal Company, A Corporation, Cicero, Illinois, of certificate in No. MC 114360 issued November 8, 1954, to Southern Express Co., A Corporation, Cicero, Illinois, authorizing the transportation of general commodities, excluding household goods and other specified commodities, over a regular route, between Hammond, Ind., and the junction of U. S. Highway 6 and Indiana Highway 152, serving no intermediate points. Jack Goodman, Axelrod, Goodman & Steiner, 39 South LaSalle Street, Chicago 3, Illinois, for applicants.

No. MC-FC 61534. By order of September 16, 1958, The Transfer Board approved the transfer to Jim Schaben, doing business as Dunlap Transfer, Dunlap, Iowa, of Certificate No. MC 30189, issued August 29, 1955, to Donald A. Thompson and Earl D. Thompson, a partnership, doing business as Thompson Bros., Dunlap, Iowa, authorizing the transportation of General commodities, excluding household goods and other specified commodities, from Omaha, Nebr., to Dunlap, Iowa, serving intermediate and off-route points within 15 miles of Dunlap. Jim Schaben, Dba Dunlap Transfer, Dunlap, Iowa, for applicants.

No. MC-FC 61541. By order of September 16, 1958, The Transfer Board approved the transfer to Richard J. Cormier, doing business as Richard the Mover, Lawrence, Massachusetts, of certificate in No. MC 6082, issued October 22, 1953 to Leo O. Demers, doing busi-

ness as O. Demers & Sons, Lawrence, Massachusetts, authorizing the transportation of general commodities, excluding household goods, and other specified commodities, over regular routes, between Boston, Mass., and Haverhill, Mass., serving certain intermediate and off-route points; coke and electrical appliances, over irregular routes, from Lawrence, Mass., to Salem, N. H.; and household goods, over irregular routes, between North Andover, Mass., and points within five miles of North Andover, on the one hand, and, on the other, points in New Hampshire, and between Lawrence, Mass., on the one hand, and, on the other, points in Connecticut and Rhode Island. George C. O'Brien, The Eight Floor, 33 Broad Street, Boston 9, Mass., for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-7746; Filed, Sept. 22, 1958; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ANNA TAHTABROUNIAN AND LUCY BAKIRGIAN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property and Location

Anna Tahtabrounian, 31 Rue Franklin, Paris 16e, France; Claim No. 63005; $895.00 in the Treasury of the United States. Vesting Order No. 17903.

Lucy Bakirgian, The White House, Bowden, Cheshire, U. K.; Claim No. 63006; $895.00 in the Treasury of the United States. Vesting Order No. 17903.

Executed at Washington, D. C., on September 16, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 58-7756; Filed, Sept. 22, 1958; 8:51 a. m.]

Office of the Attorney General

[Order No. 170-58]

ESTABLISHMENT OF A FEDERAL PRISON CAMP AT DONALDSON AIR FORCE BASE, GREENVILLE, SOUTH CAROLINA

By virtue of the authority vested in me by section 4125 of title 18 of the United States Code and section 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261), it is ordered as follows:

I hereby authorize the Director of the Bureau of Prisons to establish, equip, and maintain a Federal Prison Camp at Donaldson Air Force Base, Greenville, South Carolina; and I hereby designate that camp as a place for confinement of persons convicted of offenses against the laws of the United States, and authorize the commitment and transfer thereto of such United States prisoners as the Director of the Bureau of Prisons may order from time to time. Prisoners committed and transferred to that camp may be employed as authorized by section 4125 of title 18 of the United States Code and may receive so much of the commutation of sentence for good conduct authorized by section 4162 of that title as the Director of the Bureau of Prisons may in his discretion approve.

Dated: September 12, 1958.

WILLIAM P. ROGERS, *Attorney General.*

[F. R. Doc. 58-7749; Filed, Sept. 22, 1958; 8:50 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

JOHN H. CLEMSON

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 in the last six months:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of September 1, 1958.

JOHN H. CLEMSON.

SEPTEMBER 1, 1958.

[F. R. Doc. 58-7747; Filed, Sept. 22, 1958; 8:50 a. m.]

ALEXANDER D. THOMSON

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 in the last 6 months:

A. Deletions:
Empire Oil Tool Co.
Continental Air Lines.
Frontier Oil.
National Dairy Products Corp.
B. Additions:
Lisbon Valley Uranium Co.
Niagara Mohawk Power Corp.

This statement is made as of August 31, 1958.

ALEXANDER D. THOMSON.

SEPTEMBER 4, 1958.

[F. R. Doc. 58-7748; Filed, Sept. 22, 1958; 8:50 a. m.]