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Title 3—THE PRESIDENT

Executive Order 10825

EXCUSING CERTAIN FEDERAL EMPLOYEES FROM DUTY ALL DAY ON JULY 3, 1959

WHEREAS the Fourth of July, the anniversary of the signing of our Declaration of Independence, is a day of deepest significance to our Nation; and

WHEREAS it is appropriate that we pause from our labors to mark the beginnings of our heritage of liberty and freedom; and

WHEREAS the anniversary of our Nation's birth this year falls on Saturday, a non-workday for many employees of the Federal Government, it is appropriate that those employees who do not regularly work on that day be given an alternate day in special observance of this anniversary:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) Except as provided in section 2, employees of the several executive departments, independent establishments, and other governmental agencies, including the General Accounting Office, the Government Printing Office, and the field services of the respective departments, establishments, and agencies of the Government, whose basic workweek includes Friday, July 3, 1959, and who would ordinarily be excused from work on a holiday falling within their basic workweek, shall be excused from duty all day on Friday, July 3, 1959, the day preceding the Fourth of July; but such day shall not be considered a holiday within the meaning of Executive Order No. 10358 of June 9, 1952, or of any statutes so far as they relate to the compensation and leave of employees of the United States.

(b) Any employee of the several departments, establishments, and agencies mentioned in subsection (a), whose workday (as the term "workday" is defined in section 2(b) of Executive Order No. 10358 of June 9, 1952) covers portions of two calendar days including Friday, July 3, 1959, and who would ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall be excused from work on his entire workday which commences on July 2 or July 3, 1959, as may be determined by the head of the department, establishment, or agency concerned, or his designee.

SEC. 2. (a) This order shall not be construed as excusing from duty (i) those employees of the Department of State, the Department of Defense, or other departments, establishments, or agencies who for national security or other public reasons should, in the judgment of the respective heads thereof, be at their posts of duty on July 3, 1959; or (ii) those employees whose absence from duty on July 3, 1959, would be inconsistent with the provisions of existing law.

(b) This order shall not apply to (i) any employee who receives holiday or premium pay or compensatory time in lieu thereof, for work performed on Saturday, July 4, 1959, or any part thereof, or (ii) any employee whose basic workweek includes Saturday, July 4, 1959, or any part thereof and who is excused from duty without loss of pay or leave on a workday which includes all or part of that day.

SEC. 3. Any employee of the several departments, establishments, and agencies mentioned in section 1 who would ordinarily be excused from work on a holiday, but who (i) is not excused from duty all day on Friday, July 3, 1959, or from duty on a workday which includes portions of that day, or (ii) whose basic workweek does not include July 3, 1959, or any portion thereof, shall be excused from duty, without charge to leave or loss of pay, on one other workday in the fiscal year 1960, at such time as may be requested by the employee and approved by the head of the department, agency, or establishment concerned or his designee.

SEC. 4. This order shall not be construed as providing a basis for granting holiday, premium, or overtime pay for Friday, July 3, 1959, or any portion of such day. Heads of the respective de-

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FEDERAL REGISTER

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partments, agencies, and establishments are requested to arrange their affairs in a manner which will permit them to excuse employees from duty on that day, or to grant compensatory time in lieu thereof, without the need for additional appropriations.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
June 12, 1959.

[F.R. Doc. 59-4992; Filed, June 12, 1959; 11:58 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

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

SUBCHAPTER A—MARKETING ORDERS

[Valencia Orange Reg. 169]

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

Limitation of Handling

§ 922.469 Valencia Orange Regulation 169.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 11, 1959.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., June 14, 1959, and ending at 12:01 a.m., P.s.t., June 21, 1959, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 646,800 cartons;

(iii) District 3: Unlimited movement.

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

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

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 12, 1959.

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

[F.R. Doc. 59–4987; Filed, June 12, 1959; 11:43 a.m.]

[Lemon Reg. 796]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.903 Lemon Regulation 796.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 10, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., June 14, 1959, and ending at 12:01 a.m., P.s.t., June 21, 1959, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 511,500 cartons;

(iii) District 3: Unlimited movement.

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

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 11, 1959.

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

[F.R. Doc. 59–4972; Filed, June 12, 1959; 8:56 a.m.]

[Avocado Order 18, Amdt. 1]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in south Florida, effective

under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter set forth. A reasonable determination as to the time of maturity of avocados must await the development of the crop thereof, and adequate information thereon was not available to the Avocado Administrative Committee until June 9, 1959; a determination as to the time of maturity of the varieties of avocados covered by this amendment was made at the meeting of said committee on June 9, 1959, after consideration of all available information relative to such maturity and growing conditions prevailing during the current season for such avocados, at which time the recommendations and supporting information for such maturity regulation were submitted to the Department; such meeting was held to consider recommendation for such regulation after giving due notice thereof, and interested parties were afforded an opportunity to submit their views at this meeting; the provisions of this regulation are identical with the aforesaid recommendations of the committee and information concerning such provisions has been disseminated among the handlers of avocados; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

It is, therefore, ordered, That the provisions of paragraph (b) (2) of § 969.318 (24 F.R. 4050) are hereby amended to read as follows:

(2) After the effective time of this section no handler shall handle any of the varieties of avocados listed in Column 1 of the following Table I prior to the date listed for the respective variety in Column 2 of such table; and during the period from 12:01 a.m., e.s.t., of such date and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is at least the diameter specified for such variety in said Column 3.

TABLE I

Variety (1)	Date (2)	Minimum weight or diameter (3)	Date (4)
Fuchs	6-29-59	12 oz 3 1/16 in	7-20-59
Pollock	7-13-59	16 oz 3 8/16 in	8-17-59
Simmonds	7-20-59	14 oz 3 7/16 in	8-17-59
Hardee	7-20-59	14 oz 3 2/16 in	8-17-59
Nadir	7-27-59	12 oz 3 3/16 in	8-24-59

Effective time. The provisions of this amendment shall become effective at 12:01 a.m., e.s.t., June 15, 1959.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 12, 1959.

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

[F.R. Doc. 59-4988; Filed, June 12, 1959; 11:43 a.m.]

[Lime Order 7, Amdt. 2]

PART 1001—LIMES GROWN IN FLORIDA

Quality and Size Regulation

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 101, as amended (7 CFR Part 1001), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) in that, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 15, 1959. Shipments of Florida limes are currently subject to quality and size regulation pursuant to Lime Order 7 (§ 1001.307; 24 F.R. 3050; 3573) and, unless sooner modified or terminated, will continue to be so regulated until April 1, 1960; determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendation and supporting information for regulation of lime shipments subsequent to June 14, 1959, and in the manner herein provided, were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on June 9, 1959, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were given an opportunity to submit their views at this meeting; the provisions of this amendment are identical with the aforesaid recommendation of the committee, and information concerning such provisions has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

It is therefore, ordered, That the provisions of paragraph (b) (1) of § 1001.307 (Line Order 7, as amended; 24 F.R. 3050; 3573) are hereby further amended as follows:

1. Amend subdivision (ii) to read as follows:

(ii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties), grown in the production area, which do not grade at least U.S. Combination, Mixed Color with not less than 75 percent, by count, of the limes in any lot, and not less than 65 percent, by count, of the limes in any container in such lot grading at least U.S. No. 1, Mixed Color;

2. Add a new subdivision (iv) to read as follows:

(iv) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties), grown in the production area, which are smaller than 1⅞ inches in diameter which do not have an average juice content of at least 48 percent, by volume: *Provided,* That such juice requirement shall not apply to containers of such limes containing not in excess of 10 percent of limes smaller than 1⅞ inches in diameter.

Effective time. The provisions of this amendment shall become effective at 12:01 a.m., e.s.t., June 15, 1959.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 11, 1959.

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

[F. R. Doc. 59-4953; Filed June 12, 1959; 8:50 a.m.]

SUBCHAPTER B—PROHIBITIONS OF IMPORTED COMMODITIES

[Avocado Reg. 6, Amdt. 1]

PART 1067—AVOCADOS

Importation

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), paragraph (a) of § 1067.6 (Avocado Regulation No. 6; 24 F.R. 4134) is hereby amended to read as follows:

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited except in accordance with the following terms and conditions:

(1) All avocados imported during the period beginning at 12:01 a.m., e.s.t., June 18, 1959, and ending at 12:01 a.m., e.s.t., April 30, 1960, shall grade not less than U.S. No. 2.

(2) With respect to avocados of the Pollock variety (i) no avocados of such variety shall be imported prior to 12:01 a.m., e.s.t., June 29, 1959; and (ii) during the period beginning at 12:01 a.m., e.s.t., June 29, 1959, and ending at 12:01 a.m., e.s.t., August 3, 1959, the individual fruit in each lot of such variety shall weigh at least 16 ounces or measure not less than $3\frac{9}{16}$ inches in diameter.

(3) With respect to avocados of the Catalina variety (i) no avocados of such variety shall be imported prior to 12:01 a.m., e.s.t., June 29, 1959; and (ii) during the period beginning at 12:01 a.m., e.s.t., June 29, 1959, and ending at 12:01 a.m., e.s.t., August 3, 1959, the individual fruit in each lot of such variety shall weigh at least 18 ounces.

(4) With respect to all avocados not covered by subparagraphs (2) and (3) of this paragraph: (i) During the period beginning at 12:01 a.m., e.s.t., June 18, 1959, and ending at 12:01 a.m., e.s.t., June 29, 1959, the individual fruit in each lot of such avocados shall weigh at least 14 ounces; (ii) during the period beginning at 12:01 a.m., e.s.t., June 29, 1959, and ending at 12:01 a.m., e.s.t., August 10, 1959, the individual fruit in each lot of such avocados shall weigh at least 12 ounces; and (iii) during the period beginning at 12:01 a.m., e.s.t., August 10, 1959, and ending at 12:01 a.m., e.s.t., August 25, 1959, the individual fruit in each lot of such avocados shall weigh at least 10 ounces: *Provided,* That any lot of such avocados may be imported without regard to such minimum weight requirement if the exterior seedcoat is of a brown color characteristic of a mature avocado, or if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(5) Notwithstanding the provisions of subparagraphs (2) through (4) of this paragraph regarding the minimum weight or diameter requirement for individual fruit (i) up to 10 percent, by count, of the individual fruit in each lot may weigh less than the applicable minimum specified weight and be less than the minimum specified diameter: *Provided,* That such avocados weigh not more than 2 ounces less than the applicable minimum specified weight for the particular variety. Such tolerances shall be on a lot basis; but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(6) Each importation of avocados shall be made in conformance with the General Regulations (Part 1060 of this chapter; 19 F.R. 7707, 8012) applicable to the importation of listed commodities and the requirements of this section.

Nothing contained herein shall be construed (1) as affecting or waiving any right, duty, obligation, or liability which has arisen or which, prior to the effective time of the provisions hereof, may arise in connection with any provision of said Avocado Regulation No. 6; or (2) as releasing or extinguishing any violation of Avocado Regulation No. 6 which has occurred or which prior to the effective time of the provisions hereof, may occur.

Findings and determinations. (1) It is hereby determined, on the basis of the further information which is now available, that the requirements set forth in this amendment are comparable to the maturity regulation being made effective June 15, 1959, under Amendment 1 to Avocado Order 18 for the same type of avocados grown in south Florida, which order was published in the FEDERAL REGISTER (§ 969.318; 24 F.R. 4050).

(2) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective time of this amendment beyond that hereinafter specified (60 Stat. 237; 5 U.S.C. 1001 et seq.) in that (i) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation necessary; (ii) such amendment imposes comparable restrictions on imports of avocados with respect to maturity as are being imposed on avocados grown in south Florida under Amendment 1 to Avocado Order 18 (§ 969.318; 24 F.R. 4050), issued simultaneously herewith to become effective June 15, 1959; (iii) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; (iv) notice hereof in excess of 3 days, the minimum that is prescribed by said section 8e, is given with respect to this amended import regulation; and (v) such notice is hereby determined, under the circumstances, to be reasonable.

Effective time. The provisions of this amendment shall become effective at 12:01 a.m., e.s.t., June 18, 1959.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 12, 1959.

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

[F.R. Doc. 59–4989; Filed, June 12, 1959; 11:43 a.m.]

[Lime Reg. 3, Amdt. 2]

PART 1069—LIMES

Importation

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the provisions of paragraph (a) of § 1069.3 (Lime Regulation No. 3; 24 F.R. 3051, 3574) are hereby further amended to read as follows:

(a) On and after the effective time of this section, the importation into the United States of any lot of limes which in the aggregate exceeds 250 pounds, net weight, is prohibited unless:

(1) Such limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms) meet the requirements of at least the U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) meet the requirements of at least the U.S. Combination, Mixed Color grade with not less than 75 percent, by count, of such limes in any lot, and not less than 65 percent, by count, of such limes in any container in such lot meeting the requirements of the U.S. No. 1, Mixed Color grade;

(3) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than $1\frac{3}{4}$ inches in diameter: *Provided,* That not to exceed 10 percent, by count, of the limes in any container may fail to meet this requirement;

(4) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which are smaller than $1\frac{7}{8}$ inches in diameter have an average juice content of at least 48 percent, by volume: *Provided,* That such juice requirement shall not apply to containers of such limes containing not in excess of 10 percent of limes smaller than $1\frac{7}{8}$ inches in diameter; and

(5) Each such importation is made in conformance with the General Regulations (Part 1060 of this chapter) applicable to the importation of listed commodities and the requirements of this section: *Provided,* That the provisions of § 1060.4 (e) of this chapter (General Regulation) shall not apply.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective time of this amendment beyond that hereinafter specified (60 Stat. 237; 5 U.S.C. 1001 et seq.) in that (i) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation necessary; (ii) such regulation imposes the same restrictions on imports of limes as the grade, size, and quality restrictions being made applicable to the shipment of limes grown in Florida under Amendment 2 to Lime Order 7 (§ 1001.-

307; 24 F.R. 3050, 3573), issued simultaneously herewith to become effective June 15, 1959; (iii) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; (iv) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this amended import regulation; (v) such notice is hereby determined, under the circumstances, to be reasonable.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 11, 1959, to become effective at 12:01 a.m., e.s.t., June 18, 1959.

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

[F.R. Doc. 59–4952; Filed, June 12, 1959; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 12538]

PART 522—ORGANIZATION OF THE BANKS

Fiscal Agent and Deputy Fiscal Agent

JUNE 9, 1959.

Resolved that, the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amendment of § 522.80 of the regulations for the Federal Home Loan Bank System (12 CFR 522.80) as hereinafter set forth, and for the purpose of effecting such amendment, hereby amends said section, effective June 13, 1959, to read as follows:

§ 522.80 Fiscal Agent and Deputy Fiscal Agent.

There shall be a Fiscal Agent and there may be a Deputy Fiscal Agent of the Banks who shall be appointed by and whose compensation shall be established by the Presidents of the Banks, subject to the approval of the Board. Any function or authority now or hereafter vested in or exercisable by the Fiscal Agent may be exercised also by a Deputy Fiscal Agent.

(Sec. 17, 47 Stat. 736, as amended, 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further, that as said amendment is of a minor and noncontroversial nature and is designed to facilitate the operations of the Federal Home Loan Banks and of the Board, the Board hereby finds that notice and public procedure thereon are unnecessary under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.12) or section 4(a) of the Administrative Procedure Act and, for the same causes, deferment of the effective date thereof is not required under section 4(c) of said Act.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 59–4928; Filed, June 12, 1959; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Special Civil Air Reg. SR–424A]

PART 60—AIR TRAFFIC RULES

Positive Air Traffic Control

On May 15, 1959, notice was given that the Federal Aviation Agency had under consideration a proposal to extend for an indefinite period Special Civil Air Regulation No. SR–424 which is scheduled to expire on June 15, 1959.

The purpose of SR–424 was to determine the nature and extent of the traffic control problems involved in the application of an all-weather positive control concept.

Pursuant to authority in this special regulation positive control was implemented on three transcontinental airways linking New York and Washington with Los Angeles and San Francisco at altitudes from 17,000 to 22,000 feet. While experience gained thus far has been limited to these airways and altitudes, it has served the purpose of identifying the special problems inherent in positive control procedures. Such knowledge provides a sound basis for the continued formulation of plans, procedures and equipment improvements in the further operational development of the positive control concept. Future plans for the development of this general concept contemplate experimentation with positive control areas as well as positive control route segments. It is anticipated that specific areas at high altitudes, i.e., between flight levels 220 and 350 encompassing airspace within a 100 mile radius of a particular major air terminal (such as Chicago or Indianapolis) will be designated for such experimentation.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted (22 F.R. 3959). The Department of the Air Force has presented the sole objection to the proposed rule on the basis that it provides "* * * for extending indefinitely an experimental concept based on increased service for a relatively small segment of aviation. The exclusive feature of this concept also denies use of the affected airspace in many operations in terminal and enroute areas, thereby resulting in undue restriction to these users."

In view of the adverse comments by the Department of the Air Force it has been decided to extend the present provisions of SR–424 until September 15, 1959. This temporary extension is being made in order not to lose the increased safety which has been provided by the program, and which would be lost if it were not extended beyond the present expiration date of June 15, 1959. During this period the Agency will discuss with the Air Force the impact of this program on its operations. Following such discussions a Notice of Proposed Rule Making will be issued. A decision will then be made to continue, terminate or modify this program in light of the comments received from all interested parties.

Since this regulation extends the provisions of a previous regulation without substantive modification and since the postponement of the effective date would be contrary to the public interest, the Federal Aviation Agency finds that good cause exists for making this amendment effective with less than 30 days notice.

In consideration of the foregoing, the following Special Civil Air Regulation is hereby promulgated to become effective June 15, 1959:

(1) The special air traffic rules prescribed in paragraphs (2), (3), and (4) of this special regulation shall be applicable to any operation of an aircraft in that portion of airspace, between the altitudes of 17,000 and 35,000 feet; having a width of not in excess of 40 miles which has been designated by the Administrator as a "positive control route segment" in Part 601 of the Administrator's Regulations (14 CFR 601).

(2) No person shall operate an aircraft within such designated airspace without prior approval of air traffic control.

(3) All VFR flight activities, irrespective of weather conditions, are prohibited from operating in this designated airspace.

(4) All aircraft operated within this designated airspace shall have the instruments and equipment currently required for IFR operations and all pilots shall be rated for instrument flight.

This Special Civil Air Regulation shall terminate September 15, 1959.

(Secs. 313(a), 307(c) of the Federal Aviation Act of 1958; 72 Stat. 752, 749; 49 U.S.C. 1354, 1343)

Issued in Washington, D.C., on June 11, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59–4932; Filed, June 12, 1959; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Tolerances for Residues of O,O-Dimethyl S-(4-oxo-1,2,3-Benzotriazinyl-3-Methyl) Phosphorodithioate

A petition was filed with the Food and Drug Administration by Chemagro Corporation, P.O. Box 4913, Hawthorn Road,

Kansas City 20, Mo., requesting the establishment of tolerances for residues of *O,O*-dimethyl *S*-(4-oxo-1,2,3-benzotriazinyl-3-methyl) phosphorodithioate in or on certain raw agricultural commodities. The request for a tolerance on brussels sprouts was later withdrawn.

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

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR, 1958 Supp., 120.7(g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR, 1958 Supp., 120.154) are amended by inserting in § 120.154(a), in alphabetical order, the following items: "Broccoli, cabbage, cauliflower, cherries, onions, plums (fresh prunes), strawberries."

As amended, § 120.154(a) will read as follows:

§ 120.154 Tolerances for residues of *O,O*-dimethyl *S*-(4-oxo-1,2,3-benzotriazinyl-3-methyl) phosphorodithioate.

Tolerances for residues of *O,O*-dimethyl *S*-(4-oxo-1,2,3-benzotriazinyl-3-methyl) phosphorodithioate in or on raw agricultural commodities are established as follows:

(a) 2 parts per million in or on apples, apricots, broccoli, cabbage, cauliflower, cherries, crabapples, nectarines, onions, peaches, pears, plums (fresh prunes), quinces, strawberries.

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

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

Dated: June 8, 1959.

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

[F.R. Doc. 59-4908; Filed, June 12, 1959; 8:46 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 6390]

PART 36—CONTRACT COVERAGE OF EMPLOYEES OF FOREIGN SUBSIDIARIES

Miscellaneous Amendments

Regulations under section 3121(l) (contract coverage of employees of foreign subsidiaries) of the Internal Revenue Code of 1954 amended to conform to the Social Security Amendments of 1956 and the Technical Amendments Act of 1958.

In order to conform the regulations relating to contract coverage of employees of foreign subsidiaries (26 CFR (1954) Part 36) to sections 103(j) and 201(j) of the Social Security Amendments of 1956 (70 Stat. 824, 843) and to section 69 of the Technical Amendments Act of 1958 (72 Stat. 1659), such regulations are amended as follows:

§ 36.3121(l)(1)–1 [Amendment]

PARAGRAPH 1. Paragraph (a)(1) of § 36.3121(l)(1)–1 is amended by striking "Federal old-age and survivors insurance system established by title II of the Social Security Act" and inserting in lieu thereof "Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act".

§ 36.3121(l)(1)–3 [Amendment]

PAR. 2. Paragraph (a)(2) of § 36.3121(l)(1)–3 is amended by revising Example (3) of such paragraph to read as follows:

Example (3). Assume the same facts as in example (2) except that B's services for S–4 during December 1955 are of a character which if performed within the United States would be excepted from employment. Accordingly, P incurs no liability under the agreement with respect to the $500.00 paid in December 1955 for such services.

§ 36.3121(l)(3) [Amendment]

PAR. 3. Section 36.3121(l)(3) is amended by revising the historical note following section 3121(l)(3), set forth in such section, to read as follows:

[Sec. 3121(l)(3) as added by sec. 209, Social Security Amendments 1954 (68 Stat. 1094); as amended by sec. 69, Technical Amendments Act 1958 (72 Stat. 1659)]

PAR. 4. Section 36.3121(l)(6) is amended to read as follows:

§ 36.3121(l)(6) Statutory provisions; deposits in trust funds.

SEC. 3121. *Definitions.* * * *

(l) *Agreements entered into by domestic corporations with respect to foreign subsidiaries.* * * *

(6) *Deposits in trust funds.* For purposes of section 201 of the Social Security Act, relating to appropriations to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such remuneration—

(A) Paid for services covered by an agreement entered into pursuant to paragraph (1) as would be wages if the services constituted employment, and

(B) As is reported to the Secretary or his delegate pursuant to the provisions of such agreement or of the regulations issued under this subsection,

shall be considered wages subject to the taxes imposed by this chapter [chapter 21, I.R.C. 1954].

[Sec. 3121(l)(6) as added by sec. 209, Social Security Amendments 1954 (68 Stat. 1094); as amended by sec. 103 (j), Social Security Amendments 1956 (70 Stat. 824)]

§ 36.3121(l)(8) [Amendment]

PAR. 5. Section 36.3121(l)(8) is amended as follows:

(A) By striking "more than 50 percent of" in section 3121(l)(8)(A), set forth in § 36.3121(l)(8), and inserting in lieu thereof "not less than 20 percent of".

(B) By revising the historical note following section 3121(l)(8) to read as follows:

[Sec. 3121(l)(8) as added by sec. 209, Social Security Amendments 1954 (68 Stat. 1094); as amended by sec. 201(j), Social Security Amendments 1956 (70 Stat. 843)]

PAR. 6. Section 36.3121(l)(8)–1 is amended to read as follows:

§ 36.3121(l)(8)–1 Definition of foreign subsidiary.

(a) *Prior to August 1, 1956.* (1) For the period January 1, 1955 to July 31, 1956, inclusive, a foreign corporation is a foreign subsidiary of a domestic corporation, within the meaning of the regulations in this part, if—

(i) More than 50 percent of the voting stock of the foreign corporation is owned by the domestic corporation; or

(ii) More than 50 percent of the voting stock of the foreign corporation is owned by a second foreign corporation and more than 50 percent of the voting stock of the second foreign corporation is owned by the domestic corporation.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). P, a domestic corporation, owns 51 percent of the voting stock of S–1, a foreign corporation. S–1 owns 51 percent of the voting stock of S–2, a foreign corporation. S–2 owns 51 percent of the voting stock of S–3, a foreign corporation. S–1 and S–2 are foreign subsidiaries of P for purposes of the regulations in this part. Since neither P nor S–1 owns more than 50 percent of the voting stock of S–3, S–3 is not a foreign subsidiary of P within the meaning of the regulations in this part.

Example (2). Assume the same facts as those stated in example (1) except that 25 percent of the voting stock of S–2 is transferred by S–1 to P. P owns no other voting stock of S–2. Accordingly, after the transfer, P and S–1 together own more than 50 percent of the voting stock of S–2, but neither P nor S–1 alone owns more than 50 percent of such stock. S–2 ceases to be a foreign subsidiary of P when such transfer is effected.

(b) *On or after August 1, 1956.* (1) Beginning August 1, 1956, a foreign corporation is a foreign subsidiary of a

domestic corporation, within the meaning of the regulations in this part, if—

(i) Not less than 20 percent of the voting stock of the foreign corporation is owned by the domestic corporation; or

(ii) More than 50 percent of the voting stock of the foreign corporation is owned by a second foreign corporation and not less than 20 percent of the voting stock of the second foreign corporation is owned by the domestic corporation.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). P, a domestic corporation, owns 20 percent of the voting stock of S–1, a foreign corporation. S–1 is, therefore, a foreign subsidiary of P. S–1 owns 51 percent and P owns 15 percent of the voting stock of S–2, a foreign corporation. S–2 is also a foreign subsidiary of P, and this would be so even if P owned none of the voting stock of S–2. S–2 owns 51 percent, S–1 owns 39 percent, and P owns 10 percent of the voting stock of S–3, a foreign corporation. Since P owns less than 20 percent of the voting stock of S–2 and less than 20 percent of the voting stock of S–3, and since S–1 owns not more than 50 percent of the voting stock of S–3, S–3 is not a foreign subsidiary of P within the meaning of the regulations in this part.

Example (2). Assume the same facts as those stated in example (1) except that 4 percent of the voting stock of S–2 is transferred by S–1 to P. After, as well as before, the transfer 66 percent of the voting stock of S–2 is owned by P and S–1 together. After the transfer, however, P owns less than 20 percent and S–1 owns not more than 50 percent of the voting stock of S–2. When such transfer is effected S–2 ceases to be a foreign subsidiary of P for purposes of the regulations in this part.

(c) *Transfer of stock ownership.* The transfer of the voting stock of a foreign corporation which is a foreign subsidiary of a domestic corporation within the meaning of section 3121(l)(8) will not affect the status of the foreign corporation as such a foreign subsidiary if at all times either of the percentage tests stated in section 3121(l)(8), relating to ownership of the voting stock of such foreign corporation, is met.

(d) *Meaning of "stock".* The term "stock", as used in the regulations in this part, has the meaning assigned by paragraph (7) of section 7701(a). Section 7701(a)(7) provides as follows:

SEC. 7701 *Definitions.* (a) When used in this title [Internal Revenue Code of 1954], where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

* * * * *

(7) *Stock.* The term "stock" includes shares in an association, joint-stock company, or insurance company.

§ 36.3121(l)(10)–3 [Amendment]

PAR. 7. The first sentence of paragraph (a) of § 36.3121(l)(10)–3 is amended by deleting therefrom the words "or the Virgin Islands".

Because the primary change made in existing regulations by this Treasury decision merely reflects a change in a figure ("not less than 20 percent" in substitution for "more than 50 percent") in conformity with the amendment made by section 201(j) of the Social Security Amendments of 1956 (70 Stat. 843), it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 10, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59–4921; Filed, June 12, 1959; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 571—RECRUITING AND ENLISTMENTS

Part 571 is revised to read as follows:

Sec.
571.1 Purpose.
571.2 Qualifications for enlistment.
571.3 Periods of enlistment.
571.4 Transportation of accepted applicants.
571.5 Initial assignment choices.

AUTHORITY: §§ 571.1 to 571.5 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.
SOURCE: AR 601–210, April 27, 1959.

§ 571.1 General.

(a) *Purpose.* This part establishes the qualifications for men and women enlisting, reenlisting, or extending enlistments in the Regular Army. The procedures outlined herein are designed to simplify and standardize the processing of applicants through the recruiting service, at post reenlistment offices and at other in-service activities. Eligibility will be determined on the basis of the applicant's ability to meet all of the requirements or the exceptions thereto and will include obtainment of prescribed waivers.

(b) *Definitions.* (1) For the purpose of this part the following definitions apply:

(i) *Enlistment.* The first voluntary enrollment in the Regular Army as an enlisted member.

(ii) *Reenlistment.* The second or subsequent voluntary enrollment in the Regular Army as an enlisted member.

(ii) *Army.* The Regular Army, Army of the United States, and Army National Guard of the United States, and Army Reserve in active Federal service.

(iv) *Regular Army.* The permanent Army comprising a major component of the United States Army and as used throughout this part to distinguish between the other major components.

(v) *Prior service.* One or more days of completed active duty in a regular component or of extended active duty in a Reserve component of any of the Armed Forces, or in the Army National Guard or Army Reserve programs of active duty for training pursuant to the Reserve Forces Act of 1955, or in similar programs of any of the Armed Forces. Short periods of active duty for training other than in the aforementioned programs will not be considered for the purpose of meeting prior service requirements prescribed in this part.

(vi) *Nonprior service.* No previous service in any of the Armed Forces of the United States, or previous service without completion of 1 or more days of active duty or active duty for training as defined in subdivision (v) of this subparagraph.

(vii) *Within 90 days of separation.* The period commencing on the day immediately following the day of separation after performing active duty or active duty for training as outlined in subdivision (v) of this subparagraph and ending on the 90th consecutive calendar day thereafter.

(viii) *Major Commander(s).* The Commanding General, United States Continental Army Command; Commanding General of ZI Armies; Commanding General, Military District of Washington, U.S. Army; Commanding General, United States Army Air Defense Command; Commanding General, United States Army, Alaska; Commanding General, United States Army Hawaii/25th Infantry Division; major oversea commanders; and heads of technical services.

(2) Except when used in a section clearly applicable to only one sex, the terms "person(s)", "applicant(s)", "individual(s)", or "personnel" apply to both men and women.

(3) The term "grade(s)" used herein refer to Pay Grade(s).

§ 571.2 Qualifications for enlistment.

(a) *Age requirements*—(1) *Men.* Seventeen to thirty-four years, inclusive.

(2) *Women.* Eighteen to thirty-four years, inclusive.

(3) *Prior service personnel.* Thirty-five years and over but less than 55 years, provided:

(i) Applicants have a minimum of 3 years honorable active service in any of the Armed Forces at least 3 months of which must have been served in the Army or Army Air Corps, and

(ii) Applicant's age is not greater than 35 plus the number of completed years of prior honorable active Federal Army or Army Air Corps service. (For women, count only honorable active service since September 1, 1943.)

(4) *Exceptions.* Provided subparagraph (6) of this paragraph and/or paragraph (e)(7) of this section do not apply, the following personnel are exempt from the above maximum age limitations if they enlist or reenlist within 90 days from separation:

(i) Nonregular Army commissioned or warrant officers honorably relieved from active duty.

(ii) Enlisted men last separated from the Regular Army with an honorable or general discharge, and enlisted women last separated from the Regular Army with an honorable discharge.

(5) *Waivers.* When appropriate, waivers for over age personnel will be obtained as outlined in paragraph (e)(1) of this section.

(6) *Restriction.* Applicants who cannot acquire the necessary minimum active Federal service to qualify for retirement by age 60 may not be enlisted

or reenlisted unless such individuals are entitled by law to enlist or reenlist.

(7) *Parental consent.* The written consent of the parents or legal guardian is required for men under 18 and women under 21 years of age.

(8) *Evidence.* Age will be verified.

(b) *Citizenship*—(1) *Requirements.* Applicants must be:

(i) Citizens of the United States, or

(ii) Aliens who make a legal declaration of intent to become citizens of the United States.

(2) *Evidence.* Citizenship status will be established from the following types of evidence:

(i) *Citizens.* Birth certificates, or acceptable substitutes, naturalization certificates and such other properly authenticated documents as will conclusively establish United States citizenship.

(ii) *Aliens.* Alien declarant citizens must present the duplicate or triplicate copy of their declaration of intent (U.S. Department of Justice; Immigration and Naturalization Service Form N-315) which has been duly authenticated by a Federal District Court. This form will not be reproduced under any circumstances (prohibited by Title 18, U.S.C., section 1426(h)).

(3) *Disposition of evidence.* Documentary evidence will be returned to the applicant, after appropriate citizenship entries are made on DD Form 4 (Enlistment Record—Armed Forces of the United States).

(4) *Exceptions.* The provisions of this paragraph are applicable to all applicants, except those aliens eligible under Public Law 597, 71st Congress (Lodge Act), for whom United States citizenship is not a prerequisite to enlistment.

(c) *Educational requirements*—(1) *Men.* No minimum educational requirements apply to men, except as required by separate regulations for particular enlistment options, e.g., enlistment of high school graduates for specific army schooling. However, emphasis will be directed primarily toward the procurement of applicants who have graduated from high school or who have successfully completed the high school level General Educational Development (GED) test.

(2) *Women*—(i) *Nonprior service.* Women without prior military service or those whose only prior service was in the WAAC, must possess a certificate of graduation from high school or must present evidence that they have successfully completed the high school level General Educational Development test. Applicants who require administration of the GED test or who desire information relative thereto will be advised to communicate with the department of education of the appropriate State.

(ii) *Prior service.* Women with prior military service must have completed a minimum of 2 years of high school or must present evidence that they have successfully completed the high school level GED test.

(d) *Dependents*—(1) *Restricted.* Applicant's dependents may not exceed the numbers shown below:

(i) Zero, for nonprior service women.

(ii) One, for nonprior service men.

(iii) Two, for prior service men eligible for grades E–1 through E–3, and prior service women eligible for grades E–2 and E–3.

(2) *Unrestricted.* There are no restrictions on the number of dependents of the following:

(i) Personnel of all grades who enlist or reenlist on the day following discharge or relief from active duty from the Army.

(ii) Personnel eligible for grades E–4 through E–9, or eligible for appointment on date of enlistment or reenlistment to such temporary grades.

(iii) Men who present DA Form 1811, provided there is no change in number of dependents from date of last separation.

(3) *Waivers.* Major commanders may waive the restriction on the number of dependents of prior service personnel in meritorious cases.

(4) *Ineligibles.* A woman who has any legal or other responsibility for the custody, control, care, maintenance or support of a child, stepchild, or foster child under 18 years of age is ineligible for enlistment or reenlistment.

(e) *Classes ineligible to enlist or reenlist unless waiver is granted.* The following classes of personnel are ineligible unless the disqualification is waived by the appropriate authority.

(1) *Over age.* (i) Major commanders may grant waivers to otherwise qualified personnel who are over age but less than 55 years of age, provided the applicant has had a minimum of 3-years prior honorable active service in any of the Armed Forces, at least 3 months of which must have been served in the Army or Army Air Corps, and provided further that the applicant's age does not exceed 37 years plus the number of completed years of such prior service.

(ii) All other requests for waiver of age will be forwarded to The Adjutant General.

(2) *Physically substandard prior service applicants and those last separated for medical reasons.* Applicants who have previously served in any of the Armed Forces who fail to meet the prescribed physical standards, and those last separated by reason of physical disability regardless of whether or not they meet the prescribed physical standards, must obtain a waiver from The Adjutant General.

(3) *Applicants having time lost*—(i) *Men.* Authority to grant waivers is as indicated below for prior service men who during their last period of active service, or current period if in-service, have a total of 30 or more days time lost under Article of War 107, subsection 6(a) Appendix 2b MCM (Manual for Courts-Martial) 1951, or the Act of July 24, 1956, Public Law 780, 84th Congress, 70 Stat. 631.

(*a*) *Major commanders.* Men who have 30 days but not more than 60 days time lost.

(*b*) *The Adjutant General.* Men who have in excess of 60 days time lost.

(ii) *Women.* Authority to grant waivers is as indicated below for prior service women who have not more than 5 days time lost during their last period of active service, or current period if in-service.

(*a*) *Major commanders.* Women who are currently in-service.

(*b*) *The adjutant General.* Women who are not in-service.

(4) *Persons receiving disability pension or compensation.* A request for waiver for these personnel will be submitted to The Adjutant General even though they meet current physical standards. In addition, such personnel will be required to waive receipt of their pension or compensation during the period of enlistment or reenlistment.

(5) *Men with civil records*—(i) (*a*) *Conviction or imprisonment for other than a felony.* Major commanders may grant waivers for otherwise desirable men who have been tried, convicted, and/or imprisoned under sentence of a civil court for an offense other than a felony, provided the applicant has been unconditionally released from all forms of civil control for a minimum period of 6 months.

(*b*) *Juvenile and youthful offender records.* Adjudication or disposition by State or Federal juvenile authorities as a juvenile delinquent or youthful offender is not in itself a bar to enlistment, provided the applicant is otherwise qualified. An applicant is to be judged as to his fitness for the Armed Services by his character at the time of his application for enlistment or reenlistment. Waivers for such records may be granted by major commanders. This authority may be further delegated to recruiting main station commanders.

(*c*) *Minor offenses.* Recruiting main station commanders are authorized to grant waivers for men who have a record of a minor offense. Waivers will be granted only for a single instance of one type of offense. These offenses include a single instance of drunkenness, vagrancy, truancy, peace disturbance, or other minor offenses for which no civil restraint exists.

(ii) A thorough investigation will be conducted in each case prior to granting a waiver. Only those offenses committed subsequent to the last period of honorable active service are considered disqualifying for prior service men.

(6) *Persons last separated under certain conditions.* Requests for waivers for persons last separated under the following conditions will be submitted to The Adjutant General.

(i) Men whose last separation from the Army or Army Air Corps (not Air Force) was under the provisions of AR 615–364 or AR 635–204 (Dishonorable and bad conduct); AR 615–366 or AR 635–206 (Misconduct); paragraphs 4a and b or 6, AR 615–367 or AR 635–220 (Resignation); AR 615–368 or AR 635–208 (Undesirable habits and traits of character); and AR 615–369 or AR 635–209 (Inaptitude or Unsuitability). Further processing to determine eligibility for enlistment or reenlistment will not be accomplished until instructions have been received from The Adjutant General. Requests for waiver will not be submitted until the periods shown below have elapsed since discharge and/or un-

conditional release from confinement, probation, or parole.

(*a*) Six months, when separated under paragraph 4a, AR 615–367 or AR 635–220 (Resignation); and AR 615–369 or AR 635–209 (Inaptitude or Unsuitability).

(*b*) Two years, when separated under AR 615–364 or AR 635–204 (Dishonorable or bad conduct); AR 615–366 or AR 635–206 (Misconduct); paragraphs 4b or 6, AR 615–367 or AR 635–220 (Resignation); and AR 615–368 or AR 635–208 (Undesirable habits and traits of character).

(ii) Applicants whose DD Form 214 (Armed Forces of the United States Report of Transfer or discharge) contains the notation "EM does not meet prescribed standards for retention," "Adjudged a Youthful Offender," or "AFR 39–14 and letter AFPMP–4h, 20 March 1950, subject: Discharge of Physically Disqualified Airmen for Convenience of the Government."

(iii) Applicants whose DD Form 214 includes the following notation in the remarks item: "Par. 11, SR 615–105–1 applies", "Par. 9 or 20, AR 615–120 applies", or "Par. 9, AR 601–210 applies".

(iv) Applicants applying within 1 year following discharge by reason of hardship or dependency. Proof that the hardship or dependency no longer exists must be submitted by the applicant.

(v) Women who were last separated from another Armed Force, or who are members of the Army Reserve currently on active duty, or who have been separated from the Regular Army for more than 90 days, regardless of the type of separation.

(vi) Any former enlisted member of the Regular Army who has served on active duty as a Reserve officer of the Army, or who was discharged as an enlisted member to accept a temporary appointment as an officer of the Army, whose officer or warrant officer service was terminated by a general discharge.

(vii) Former commissioned officers or warrant officers last separated from any of the Armed Forces either as a direct result of trial by court-martial, reclassification, and/or elimination proceedings or by resignation in lieu thereof, and those last separated under the provisions of AR 635–105A or AR 605–200 (Demotion and elimination), AR 605–275 or AR 635–120 (Resignation and discharge). Requests for waiver and grade determination may be submitted for those applicants last separated from the Army or Army Air Corps.

(viii) Former Regular Army officers and warrant officers regardless of the conditions under which separated. Enlistment grade will be specified by The Adjutant General.

(ix) Applicants last discharged from the Marine Corps under the provisions of paragraph 10271(1)g, Marine Corps Manual 1949.

(7) *Persons eligible for retirement.* Personnel who have completed 30 years active Federal service or who are 55 years of age and over with 20 or more years of completed active Federal service are ineligible for enlistment or reenlistment unless waived as indicated herein.

(i) Oversea commanders reporting direct to the Department of the Army and ZI army commanders may authorize a waiver for the reenlistment of Regular Army personnel otherwise qualified under this part, subject to quotas announced by The Adjutant General, who are assigned to a division of smaller tactical unit, but not beyond the last day of the month in which they attain age 60, in those cases in which any of the following conditions apply:

(*a*) Individual has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross.

(*b*) Individual who through 10 or more years of assignment in the current unit adds considerably to its morals and prestige.

(*c*) Individual whose performance has been outstanding.

(ii) Individuals for whom a waiver has been approved will be reenlisted for a period not to exceed 3 years or will have enlistments extended. Such an individual will not again be reenlisted or extended until the initial period of reenlistment or extension for which waiver was authorized herein has been completed, except for reasons authorized by paragraph 3b(1) (a) and (b) 1, 2, 4, and 5, AR 635–205 (Discharge and release, convenience of the Government).

(8) *Regular Army personnel not fully qualified for reenlistment.* Regular Army personnel found to be not fully qualified for reenlistment and for whom no specific procedure for waiver for a particular disqualification has been prescribed elsewhere in this part may be recommended for reenlistment by the individual's immediate commander and request for waiver submitted through channels to The Adjutant General. All recommendations must be fully justified. Request for waiver of a disqualification under this subparagraph will not be made except for those individuals who are deemed to be exceptionally worthy and whose further retention is deemed to be a distinct benefit to the Regular Army. Recommendations should be submitted in sufficient time, preferably 90–120 days prior to ETS, to permit waiver procedure and continuous service whenever possible. Waivers issued hereunder will be valid for a stated period not to exceed 90 days following separation.

(9) *Personnel ineligible for reenlistment in the service from which last discharged.* In general, personnel ineligible for reenlistment in the service from which last discharged are also ineligible for enlistment in the Regular Army. Individual cases in which determination cannot be made as to eligibility for reenlistment in the service from which last discharged will be forwarded to The Adjutant General.

(f) *Classes ineligible to enlist or reenlist—no waivers granted.* The following classes of personnel are ineligible and requests for waivers of these disqualifications will not be initiated.

(1) *Persons convicted of felonies.* Persons convicted of felonies are ineligible, except that for prior service men only those offenses committed subsequent to their last period of honorable active service are disqualifying. For this purpose, a felony is defined as a conviction of an offense of a civil nature for which the maximum punishment imposable under the Uniform Code of Military Justice, the U.S. Code, or the code for the District of Columbia, whichever prescribes the lesser punishment, is death or confinement in excess of 1 year. It should be noted, however, that a conviction either as a civilian or as a member of the Armed Services for an offense within the scope of the Act of September 1, 1954 (68 Stat. 1142; 5 U.S.C. 740b et seq.—Public Law 769, 83rd Cong.) renders an individual ineligible to receive retired pay or any other type of annuity payable by any department or agency of the Government of the United States or the government of the District of Columbia, even though the conviction itself may not be considered disqualifying for reenlistment when the individual has served honorably on active duty subsequent to such conviction.

(2) *Applicants against whom criminal charges are pending.* Persons who have criminal charges filed and pending against them alleging a violation of State, Federal, or territorial statute. Included in this category are persons who, as an alternative to further prosecution, indictment, trial, or incarceration for such violation, or to further proceedings relating to adjudication as a youthful offender or juvenile delinquent are granted a release from the charge by a court on the condition that they will apply for and be accepted for enlistment in the Regular Army.

(3) *Parolees.* Persons on parole, probation, or suspended sentence from any civil court.

(4) *Women.* Women of the following classes are ineligible:

(i) Married, unless they have prior Army service.

(ii) Those who have a juvenile or youthful offender record or who have been convicted by a civil court of any offense other than a minor traffic violation.

(iii) Those who have time lost in excess of 5 days during their last period of service.

(iv) Those who have had an illegitimate pregnancy, except for women who are currently serving with a minimum of 5 years honorable active service who are recommended for reenlistment by their immediate unit commander.

(v) Those to whom paragraph (d)(4) of this section applies.

(5) *Insane or intoxicated persons.*

(6) *Applicants having venereal disease or a history of venereal disease.* Men who are not acceptable for military service and women who have a history of any venereal disease.

(7) *Applicants unable to substantiate claim of honorable prior service.* Persons unable to produce written evidence of prior service are ineligible until such service has been verified.

(8) *Applicants for retirement and persons receiving retired, retirement, or retainer pay.* Persons who have an application for retirement pending, and those receiving retired, retirement, or retainer pay from any of the Armed Forces for disability, length of service, or other reason. This prohibition is not

applicable to Reservists who are members of the Retired Reserve and are not receiving retired, retirement, or retainer pay.

(9) *Persons who have received severance pay.*

(10) *Selective Service registrants.* Selective Service registrants who have received orders from their local boards to report for induction, and those registrants classified into class 1–A–O, 1–A–P, and IV–F, unless their classification is changed by their local board.

(11) *Applicants whose enlistment or reenlistment would not be clearly consistent with the interests of national security or who refuse to sign the Armed Forces Security Questionnaire (DD Form 98) and/or Statement of Personal History (DD Form 398).*

(12) *Conscientious objectors.*

(13) *Persons separated under the following conditions.* Applicants separated from their last period of active service in any of the Armed Forces under any of the following regulations and/or conditions:

(i) AR 600–443 or AR 635–89, Separation of Homosexuals.

(ii) AR 615–370 or SR 600–220–1 or AR 604–10. Disloyal and Subversive; Military Personnel Security Program.

(iii) Par. 7 and 8, AR 615–367 or AR 635–220, Resignation.

(iv) SR 600–440–1, Disposition of Psychotics. (No waivers granted unless psychiatric examination reveals complete recovery.)

(v) Sec. III, AR 615–361, or par. 3, SR 625–5–5, or par. 6, AR 635–120, Pregnancy.

(vi) Sec. IV, AR 615–361 or par. 7, AR 635–120, Parenthood. A woman last separated under provisions of the regulations cited in this subdivision may reenlist only if her status as the stepparent, foster parent or custodian of a child (children) under 18 years of age is subsequently terminated and she can currently meet requirements of this part.

(vii) Sec. III, AR 615–361 or par. 5, AR 635–120, Marriage. Women last separated under provisions of the regulations cited in this subdivision are ineligible to enlist or reenlist until a period of 1 year has elapsed from the date of separation.

(viii) DA Circular 635–2, August 19, 1957, or April 3, 1958. Separation of enlisted men who lack job performance potential.

(ix) Men last separated from the Navy, Marine Corps, Air Force, or Coast Guard, either active or inactive, with other than an honorable or general discharge.

(x) Women last separated from any of the Armed Forces, either active or inactive, with a general or other than honorable discharge.

(xi) Personnel last separated from any of the Armed Forces for other reasons similar to those listed herein for whom a subsequent enlistment or reenlistment in the Regular Army would not be in the best interest of the service.

(xii) Personnel whose last report of separation from their former service indicates that they are ineligible for reenlistment in that service for any cause other than time lost waivable under paragraph (e)(3) of this section. This disqualification applies to former Navy personnel discharged after August 1, 1947 and former Marine Corps personnel discharged after April 30, 1954 (except six-month Reservists released subsequent to July 1, 1956) whose last report of separation does not contain the remark "Recommended for Reenlistment", unless the applicant submits an official statement from his former service to the effect that the required remark was omitted from his separation form through administrative error. This subdivision will not apply to persons last separated under honorable conditions by reason of physical disability.

§ 571.3 Periods of enlistment.

(a) *Authorized periods.* Enlistments and reenlistments are authorized for periods of 3, 4, 5, or 6 years, at the option of the individual concerned, except as otherwise prescribed herein.

(b) *Two year enlistments.* An enlistment period of 2 years is authorized for:

(1) Women who have no prior Regular Army enlisted service.

(2) Men without prior service who are registered with Selective Service and who:

(i) Are classified 1–A.

(ii) Are between the ages of 18 years 6 months and 26 years. (Proof of age is mandatory.)

(iii) Are volunteers for induction.

(iv) Enlist for Regular Army, unassigned.

(c) *Restrictions.* Enlistments and reenlistments will be restricted to a 3-year period for:

(1) Individuals, except recipients of the Medal of Honor, who are granted waiver under § 571.2(e) (3) and (5).

(2) Individuals with less than 14 years active Federal service who do not meet the mental standards. This restriction will not apply to recipients of the Medal of Honor.

§ 571.4 Transportation of accepted applicants.

(a) Transportation and subsistence will be furnished to applicants only when they have been tentatively accepted for enlistment, or when recalled for enlistment or reenlistment after their names are reached on the waiting list.

(b) Return transportation and subsistence from recruiting main stations to point of initial acceptance will be furnished to rejected applicants and those acceptable applicants who cannot be enlisted at the time. Return transportation will not be furnished an applicant who is rejected because of disqualification concealed by him at the time of acceptance as an applicant.

§ 571.5 Initial assignment choices.

Personnel who enlist or reenlist in the Regular Army for 3 or more years are authorized certain initial assignment choices, provided they meet the criteria prescribed in separate regulations and directives governing the selection of a particular option. Personnel who enlist for 2 years, and personnel who enlist or reenlist for 3 or more years who do not meet the prerequisites for a particular option or who do not desire to select an option, will be enlisted or reenlisted in the Regular Army or Regular Army-WAC, unassigned.

BRUCE EASLEY,
Major General, U.S. Army,
Acting The Adjutant General.

[F.R. Doc. 59–4902; Filed, June 12, 1959; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

Vessels Operated by Pacific Micronesian Lines, Inc.

CROSS REFERENCE: For promulgation of § 19.35, see Title 46, Chapter I, Part 154, *infra.*

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER O—REGULATIONS APPLICABLE TO CERTAIN VESSELS DURING EMERGENCY

[CGFR 59–23]

PART 154—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS [1]

Vessels Operated by Pacific Micronesian Lines, Inc.

The Acting Assistant Secretary of Defense (Supply and Logistics) in a letter to the Secretary of the Treasury dated May 25, 1959, requested a general waiver of Navigation and vessel inspection laws of the United States as follows:

Each year since 1951, the Secretary of Defense has recommended waiver of the vessel inspection laws of the United States for certain vessels operating in the waters of the Trust Territory. This is to recommend a limited waiver similar to the one recommended last year.

By Department of Defense Directive 5100.21 published in the FEDERAL REGISTER on April 16, 1959 (24 F.R. 2912) the Secretary of Defense delegated to the Assistant Secretary of Defense (Supply and Logistics) authority to recommend such waivers.

In the interest of national defense it is requested pursuant to the provisions of Public Law 891, 81st Congress, that the requirements of the vessel inspection laws relating to licensed and unlicensed personnel, passengers' quarters, crews' quarters, lifesaving equipment and the number of passengers allowed to be carried on freight vessels be waived for the period July 1, 1959 to June 30, 1960, for vessels which are or will be operated by the Pacific Micronesian Lines, Incorporated, for the Department of the Interior in Trust Territory waters.

[1] This is also codified as 33 CFR Part 19.

Section 1 of the act of December 27, 1950 (64 Stat. 1120; 46 U.S.C., note preceding 1), states in part as follows:

> That the head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. * * *

In Federal Register Document 59-3175 published in the FEDERAL REGISTER dated April 16, 1959 (24 F.R. 2912), the Secretary of Defense, the Honorable Neil McElroy, delegated to the Assistant Secretary of Defense (Supply and Logistics) full power and authority to act for and in the name of the Secretary of Defense, and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act pursuant to Public Law 891, 81st Congress, 2d Session, (64 Stat. 1120; 46 U.S.C., note preceding 1) except as delegated to the Secretary of the Army insofar as such act is related to the St. Lawrence Seaway Power Project, the St. Lawrence Seaway Navigation Project, and the Great Lakes Connecting Channels Project.

The purpose for the following waiver order designated § 154.35, as well as 33 CFR 19.35, is to waive the navigation and vessel inspection laws and regulations issued pursuant thereto which are administered by the United States Coast Guard as requested by the Acting Assistant Secretary of Defense (Supply and Logistics) and to publish this waiver in the FEDERAL REGISTER. It is hereby found that compliance with the Administrative Procedure Act respecting notice of proposed rule making, public rule making procedure thereon, and effective date requirements thereof is impracticable and contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by an order of the Acting Secretary of the Treasury dated January 23, 1951, identified as CGFR 51-1, and published in the FEDERAL REGISTER dated January 26, 1951 (16 F.R. 731), the following waiver order is promulgated and shall be in effect to and including June 30, 1960, unless sooner terminated by proper authority, and § 154.35 is revised as follows:

§ 154.35 Department of the Interior vessels operated by Pacific Micronesian Lines, Inc.

Pursuant to the request of the Acting Assistant Secretary of Defense (Supply and Logistics) in a letter dated May 25, 1959, made under the provisions of section 1 of the act of December 27, 1950 (64 Stat. 1120; 46 U.S.C., note prec. 1), I hereby waive in the interest of national defense compliance with the provisions of the navigation and vessel inspection laws relating to licensed and unlicensed personnel, passenger quarters, crew quarters, lifesaving equipment, and the number of passengers allowed to be carried on freight vessels, administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of vessels of the Department of the Interior and now operated by Pacific Micronesian Lines, Inc., or other vessels which may be used as substitutes for such vessels, in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports. This waiver order shall be in effect from July 1, 1959, to and including June 30, 1960, unless sooner terminated by proper authority.

(Sec. 1, 64 Stat. 1120; 46 U.S.C., note prec. 1)

Dated: June 11, 1959.

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 59-4974; Filed, June 12, 1959; 11:23 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

[Docket No. AO-71-A37]

MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Newark, New Jersey, on August 19-22, 1958; Watertown, New York, on August 25, 1958; Albany, New York, on August 27-28, 1958, and New York, New York, on September 9-12, 1958 pursuant to notice thereof issued on August 7, 1958 (23 F.R. 6185).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on April 8, 1959 (24 F.R. 2805) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

(1) Revision of transportation differentials applicable to class prices, the fluid skim differential and the uniform or blend price paid to producers.

(2) Whether direct delivery differentials should be eliminated in their entirety, retained in present form, or modified as to rate or area of application.

Findings and conclusions. The findings and conclusions hereinafter set forth relative to the above listed material issues are based on the evidence presented at the hearing and in the record thereof. Although the issues on which findings and conclusions are made herein are listed as two separate issues, their interrelationship is acknowledged and, in a sense, they may be considered as constituting a single issue since both issues, as listed, relate to variations in minimum prices to be paid by handlers depending upon the location at which milk is received from producers.

Existing provisions of the order for transportation and direct delivery differentials are those made effective on August 1, 1957 and are provisions effectuating findings and conclusions in the decision of June 10, 1957 (22 F.R. 4194) based on evidence in the record of a public hearing held during the period June 18, 1956-March 29, 1957 (Docket No. AO-71-A32 and Docket No. AO-284).

Proposals to change these provisions were submitted and it is on such proposed changes that the hearing was held during the period August 19-September 12, 1958. Thus, there is now presented for decision on the record of this latter hearing only the question of whether the existing order provisions relating to transportation and direct delivery differentials should be changed. No question is recognized as being appropriately presented for decision on the record of this hearing concerning the validity of findings and conclusions or the effectuating order provisions formulated on the basis of the former hearing, this being a question properly to be presented only in a proceeding held pursuant to section 608c (15) (A) of the Act.

Issue No. 1. Transportation differentials. The rate of transportation differentials applicable to the Class I-A and Class I-B price, the fluid skim differential, and the uniform price (hereinafter called "Class I transportation differentials") should be changed from 1.4 to 1.2 cents per 10-mile zone. No change should be made in the transportation differentials applicable to the Class II and Class III prices.

The cost of transporting fluid milk by tank truck from country plants to Metropolitan New York-New Jersey varies by an average of approximately 1.2 cents per 10-mile zone. Thus Class I transportation differentials which change at a uniform rate of 1.2 cents per 10-mile zone will reflect current transportation cost variations associated with distance. Tank trucks are the principal means of transporting milk from country plants to Metropolitan New York-New Jersey. The record discloses shipment of milk by railroad tank cars from only two plants. The use of larger tank trucks

and elimination of the 3 percent tax on transportation charges have contributed to a lower unit of cost of transportation.

A survey covering approximately 50 percent of the milk shipped from country plants in November 1957, indicates that approximately 80 percent of the loads were in tank trucks with capacity of 480 cans or more. It also was shown that about 66 percent of a total of 256 tank trucks used by various haulers were over 450 cans capacity and that smaller trucks were being replaced with those with capacity up to 540 cans.

The average of actual charges for transportation, excluding the transportation tax (which no longer is applicable) from locations in the 201–210-mile zone was 35.6 cents in tanks with capacity of 480–539 cans and about 43 cents in tanks with less than 480 cans capacity. Weighting these rates by the approximate relative volumes moved by larger and smaller tanks; that is, 80 percent in larger tanks and 20 percent in smaller tanks, results in an average for the zone of about 37 cents.

It is recognized that these rates are for hauling milk to points in New York City, some of which are approximately 25 miles inside the arc of basing points used in determining zones. Thus, the use of a differential rate of 1.2 cents per 10-mile zone for the equivalent of 22.5 zones (20 to the arc and 2.5 inside) has the effect of allocating 27 cents (22.5 times 1.2) of the total cost of 37 cents to variable costs and 10 cents to the fixed cost of transportation. Use of the arc of basing points in determining zones, however, recognizes distance only to the arc, leaving a total variable cost of 24 cents (20 zones times 1.2) to be reflected in the schedule of transportation differentials. The fixed cost of transportation is of no importance in achieving uniformity in pricing at various locations from which the cost of transportation to Metropolitan New York-New Jersey is borne by the handler since it is a factor uniformly applicable in all instances. It is a factor, however, to which recognition must be given in pricing milk delivered directly to plants in Metropolitan New York-New Jersey where the entire cost of transportation is borne by the producer rather than the handler.

A differential rate of 1.2 cents per 10-mile zone is found to be justified both on the basis of variations in actual transportation costs and on computations presented based on quoted transportation rates of haulers. Several computations of variable and fixed transportation costs were presented based on quoted rates of a major hauler from points in New York State to New York City. One of such computations was based on 336 point-to-point rates and another on 328 point-to-point rates. Variable costs per 10-mile zone were indicated from these computations to be about 1.3 cents using trucks with capacity of over 450 cans and about 1.4 using smaller trucks. Fixed costs based on these calculations ranged from 9 to 12.5 cents. Published rates for other haulers also were presented from which variable costs per 10-mile zone were computed ranging from .98 to 1.77 cents and with fixed costs ranging from 5 to 25 cents.

Actual transportation charges were presented for hauling milk to New York City from 208 plants in April and May 1958. For hauls in tank trucks with capacity of 480–539 cans from 116 plants in 29 zones, the charges made indicate a variable cost per 10-mile zone of 1.2 cents and a fixed cost of 10.5 cents. Based on charges for hauling from 92 plants in 27 zones using trucks of 400 to 479 cans capacity, the variable cost was 1.5 cents with a fixed cost of 11 cents. A separate report of actual charges for hauling from 13 plants in zones between 150 and 350 miles showed a variable cost of 1.24 cents per zone.

A differential rate reflecting variable costs based primarily on actual charges appears appropriate. Published rates were shown to apply generally to single loads rather than to regular hauls and to differ from actual charges also depending upon such factors as (1) size of load, (2) road conditions, (3) State load limits, (4) location of hauler's garage relative to delivery and shipping point, (5) opportunity for return loads, and (6) competition from other haulers. The rate of 1.2 cents also recognizes the predominant current use of larger trucks and a continuing trend in that direction. Analysis of transportation cost variations associated with distance support a uniform differential rate for all zones rather than proposals for a tapering rate declining with distance from the Metropolitan area. Point-to-point rates for different sectors according to distance provide no consistent pattern of a lower variable cost for distant zones.

Differentials applicable to Class II and Class III prices, as previously indicated, should remain unchanged at the present rate of 1 cent for each 25 miles.

Proposals were made to (1) reduce to zero the differentials presently ranging from 1 to 4 cents in the 121–200-mile zones, (2) increase the differentials by amounts ranging from 1 to 4 cents per 25-mile zone within 100 miles, and (3) increase the differentials within 180 miles by amounts ranging from 0.5 cents in the 171–180-mile zone to 6.6 cents in the 1–10-mile zone.

Proponents of lower differentials in the 121–200-mile zone computed transportation costs from quoted rates of a major hauler for hauling 40 percent cream, 20 percent cream, and plain condensed in tank truck loads of 3,500–4,000 gallons and for minimum truck loads of 32,000 pounds. Such computed transportation costs for the milk equivalent of 40 percent cream f.o.b. the Metropolitan market and nonfat dry milk f.o.b. manufacturing plants, were 1.0 cent less in the 101–110-mile zone and 1.4 cents more in the 301–310-mile zone than in the 201–210-mile zone. This proposal would reduce by from 1 to 4 cents the present plus adjustment of Class II and Class III prices at locations between 121 and 200 miles.

Proponents of such lower differentials maintained that the proposal would have only a minor effect on the value per hundredweight of all milk in the pool, since only about 24 percent of total Class II and Class III milk in 1957 originated at plants within the 225-mile zone. Under this proposal, however, about 22 percent of all Class II and Class III milk would return lower prices without any compensating increase at other locations. During the period August–December 1957 (the period for which data were in the record for the enlarged marketing area) Class I utilization at plants by 25 mile zones between 125 and 200 miles averaged from 72 to 74 percent of producer receipts at these plants. Producer receipts at plants in these zones averaged 33 to 37 percent of total producer receipts. Plants more distant from the market shipped considerable volumes of milk for Class I utilization into the market during this period. Thus, lower Class II and Class III prices inside the 200-mile zone would tend to encourage the use of this nearby milk for manufacturing during periods when market requirements for milk for fluid use must come from more distant plants.

Reductions in differentials at locations between 121 and 200 miles were proposed in order to provide the same cost for cream and nonfat dry milk at such locations as at more distant locations. However, consideration must be given to the production area in its entirety when determining the appropriate differentials. Products included in Class II and Class III are of widely varying concentration, with such variation directly affecting the cost of transportation. For example, the transportation cost of such products as fluid skim, buttermilk, milk drinks, half and half, and other related products is similar to that of fluid milk. On the other hand, whole milk powder, butter, cheese, nonfat dry milk and related products would have lower transportation costs in terms of their milk equivalent. Also, there are intermediate products, from the standpoint of transportation costs, such as fluid cream, condensed milk and cottage cheese. Differentials designed to provide equality of cost for selected products in selected areas would result in inequalities in other areas and for other products. No single schedule of differentials can be expected to result in precise or exact equality for all products at all locations, and obviously, separate schedules for individual products would be not only impractical but also inconsistent with the overall classification plan.

The calculation, from available quoted rates, of total transportation costs for various products, equivalent to 100 pounds of 3.5 percent milk, results in variations closely related to present order differentials. For example, the variation in transportation costs for plants in the 201–210-mile zone compared to plants in the 151–160-mile zone for the milk equivalent of 40 percent cream and nonfat dry milk was 1.4 cents; 18 percent cream and nonfat dry milk, 1.8 cents, and 40 percent cream and condensed milk, 2.2 cents compared with the present order differential of 2 cents. No figures were presented showing actual transportation costs for Class II and Class III products which would serve to support or deny the relationship of computed or quoted rates of the one hauler.

Proponents of increased differentials for these zones within 180 miles computed transportation costs from quoted

rates of a major hauler for various combinations of Class II and Class III products. The computed transportation cost associated with distance varied from 0.14 cents per 10-mile zone for the milk equivalent of cheese and whey powder to 0.58 cents per 10-mile zone for cream and nonfat dry milk. The proposed higher differentials do not appear to be supported by variations in the transportation costs associated with distance. However, proponents claimed justification for the proposal as a means of achieving more efficient procurement and utilization of milk. Higher differentials at locations within 100 miles likewise were proposed to encourage the use in fluid classes (rather than in manufactured products) of milk received at such locations and also to encourage the economical allocation of producer deliveries among handlers in this area so that handlers would tend to keep direct delivered receipts in line with fluid sales.

During the period August–December 1957, Class I utilization of producer receipts at plants by 25 mile zones within 125 miles averaged from 90–96 percent. Producer receipts at plants in the 1–125-mile zone averaged 16 percent of total producer receipts during this period. For the year 1957, only about 2.5 percent of the total volume of Class II and Class III milk was received at plants inside 125 miles. Thus, the potential for encouraging the use in Class I of a higher percentage of receipts in this area is extremely limited. For the year 1957, about 22 percent of the total volume of Class II and Class III milk was received at plants in zones between 125 and 200 miles, and as previously found, Class I utilization in these zones for the period of August–December 1957, averaged from 72–74 percent of producer receipts. While it is conceivable that higher Class II and Class III differentials in these zones might induce a somewhat higher Class I utilization, it also must be recognized that such utilization now is above the average for all zones; that present differentials are higher than apparent differences in transportation costs associated with distance particularly as to relatively concentrated products, and that the lower Class I differentials herein provided will tend to favor Class I utilization of milk received at plants inside 200 miles. At the same time, for that milk used in Class II and III inside the 200-mile zone, there is opportunity for plant operators to utilize milk in those products which are most favorable in terms of the transportation differentials provided in the order.

Issue No. 2. Direct delivery differentials. It is concluded that provision should continue to be made for direct delivery differentials at the present rates applicable to milk received at plants located in Metropolitan New York-New Jersey and surrounding nearby territory and at other locations presently specified in Upstate New York.

In the decision of June 10, 1957, it was found that:

(1) Direct delivery differentials are "differentials paid by handlers, directly to producers delivering milk to specified locations reflecting factors other than those associated with varying transportation costs".

(2) "In most instances the value to a handler of direct delivered milk is related to the lowest cost of an alternative supply which meets his requirements with respect to volume, seasonality, and quality. Where abundant supplies are available from a relatively large number of producers delivering to nearby pool plants and who are being paid the minimum Order No. 27 uniform price, only a small premium, if any, is required to obtain an adequate supply of direct delivered milk. If the best alternative is direct receipts from producers in a more distant area, direct delivery from nearby producers is worth the price which must be paid in the more distant territory plus the additional cost of transporting milk from that distant territory. If the best alternative supply is milk from an Order No. 27 pool plant, direct delivery is worth the class price at that plant plus the charge for country plant handling and hauling."

The above findings (numbered (1) and (2)) were made with reference to direct delivery differentials generally, that is, those payable at locations in or near the New York-New Jersey metropolitan territory and also at other locations. However, as in the decision of June 10, 1957, consideration here will be given first to direct delivery differentials applicable to milk received at plants located in or immediately surrounding the New York-New Jersey metropolitan area. As to such differentials the following findings (in addition to those quoted above insofar as they are applicable) are set forth in the decision of June 10, 1957. Such findings are listed here (as quotes numbered (3) through (6)) together with additions thereto or modifications thereof based on evidence in the record of this hearing (the term "this hearing" being used herein to refer to the hearing ending on September 12, 1958). No findings are made herein on evidence presented at the hearing with particular reference to findings made in the decision of June 10, 1957 relating to nearby differentials paid pursuant to § 927.71(b) of the order since the question of changing such differentials is not an issue in this proceeding.

(3) "Metropolitan New York-New Jersey receives the major part of its supply from country plants; only a small part of the total is received from producers delivering milk directly to processing plants in or near this territory." Evidence in the record of this hearing supports this finding as to periods of time both before and after the decision of June 10, 1957. In the month of November 1956, only about 14 percent of the milk for fluid use in the metropolitan district was received from producers at plants located inside the 60-mile zone (as zones presently are determined). Comparable percentages for the months of May 1957, November 1957, and May 1958 are approximately 19, 12 and 16 respectively. In June 1958, the total volume of milk received from producers at plants in the 1–10-mile zone was slightly under 9 million pounds, a volume equivalent to less than 3 percent of the milk for fluid use in Metropolitan New York-New Jersey.

(4) "Milk dealers receiving milk from country plants for distribution in the metropolitan territory therefore must pay in addition to the price paid farmers, an additional charge covering the cost of handling at the country plant and the cost of transportation, including both the fixed and variable costs of transportation, from the country plant to the city plant." This finding is supported by evidence in the record of this hearing as to time periods both before and after the decision of June 10, 1957.

The customary charge prevailing in 1958 for country plant handling under inter-handler contracts was approximately 35 to 37 cents per hundredweight and the cost of transportation from the 201–210-mile zone was shown to be about 34 cents per hundredweight, (37 cents adjusted to the arc) making a total charge over and above the class price at the country plant of about 70 cents per hundredweight. Handling charges on spot market sales by country plants fluctuate rather widely but tend to average not far different from charges for contract milk.

(5) "Handlers receiving milk directly from producers at processing plants located within the 1–10-mile zone would avoid charges of 25 cents or more for operation of a country plant together with the fixed cost of transportation. The amount charged the city dealer by a country plant operator for these services usually is in excess of 25 cents. A direct delivery differential for milk delivered to a handler located in the 1–10-mile zone of 25 cents per hundredweight would tend to equate his cost of milk with the cost of a handler similarly located who receives his milk from a country plant."

The record of this hearing provides a basis for some further refinement and expansion of these findings. Specifically, the "charges of 25 cents or more" referred to in the first sentence above were shown to consist of a country plant handling charge approximating 36 cents and a fixed transportation cost of 10 cents. These items total 46 cents which constitutes the amount charged the city dealer by a country plant operator and which (as set forth in the second sentence quoted above) usually is in excess of 25 cents. By way of clarification, it is recognized, of course, that the operator of a city pasteurizing and bottling plant receiving milk directly from producers (rather than from country plants) actually avoids payment of all charges for country plant handling and the entire cost of transportation, which charges are shown to be 36 cents and 34 cents respectively, or a total of 70 cents. However, the variable cost of transportation (24 cents from a plant in the 201–210-mile zone) would be reflected in the city plant price which, when deducted from the 70 cents, leaves the same 46 cents.

Perhaps a clearer picture is obtained if the cost to a city plant operator for country plant milk is considered to be the country plant price plus 70 cents. If the same city plant operator receives milk directly from producers the price re-

quired to be paid would be the country plant price plus the transportation differential of 24 cents and plus whatever amount is specified as a direct delivery differential. If no direct delivery differential is specified, it thus appears that the minimum price established for milk received directly from producers at a plant in the 1–10-mile zone would be 46 cents less than the cost of milk received by tank truck from a country plant. The addition of a direct delivery differential of 25 cents to the price for milk received directly from producers at the city plant brings the price to 49 cents (25 plus 24) above the country plant (201–210-mile zone) price. There remains a difference of 21 cents (70 minus 49) to cover the cost of those functions or operations performed at the city plant when milk is there received directly from producers which is in excess of the cost incurred when milk previously received at a country plant is received at the city plant.

The cost of various functions associated with receiving milk from producers is incurred irrespective of whether it is received at a country plant or at a city plant. However, when milk is received at the city plant by tank truck from a country plant, rather than directly from producers at the city plant, the cost of receiving such country plant milk is substituted for the cost of receiving milk from producers. It is the amount of this difference in the cost of these two methods of receipt that is the item of significance here and is somewhat less when milk from producers is received at the city plant in bulk tank than when milk from producers is received in cans at the city plant. No basis is found in the record on which to determine the precise amount of this difference. However, the cost of receiving milk at a city plant by tank truck from a country plant was indicated to approximate 5 cents per hundredweight. On this basis, the cost of direct delivered milk could exceed the alternative cost of country plant milk only if the cost of receiving milk at the city plant directly from producers is more than 26 cents per hundredweight. This appears to be a cost higher than expected with a reasonably efficient operation. Accordingly, the evidence in the record of this hearing supports the finding (third quoted sentence under item (5) above) that a direct delivery differential of 25 cents for milk delivered to a handler located in the 1–10-mile zone would tend to equate his cost of milk with the cost of milk for a handler similarly located who receives his milk at a country plant.

It was pointed out that a substantial number of pasteurizing and bottling plants are operated by handlers who also operate country plants and thus are not required to pay handling charges on milk transferred between handlers. Thus, it was argued that the cost of an alternative supply is not an appropriate basis for determining a rate of direct delivery differentials. However, since city plant operators without country plant supplies provide a constant and continuing market for country plant milk, the alternative of supplying this market is available also to country plant operators who also operate their own city plants. If they choose to obtain milk for their city distribution from their own country plants, they forego the opportunity of disposing of their country plant milk to other handlers at the prevailing handling charge. Under these circumstances, the amount of the prevailing country plant handling charge is a proper measure of the cost of obtaining country plant milk.

(6) "Handlers customarily have paid a premium over the uniform price to producers delivering to plants in the area covered by these (direct delivery) differentials, and usually in considerably greater amounts than are required by these differentials." It also was found in the decision of June 10, 1957 that in 1955 premiums over the uniform price received by producers in the western counties of northern New Jersey averaged 36 to 39 cents per hundredweight. During the period August 1956 through July 1957, dealers operating pool plants located in New Jersey paid premiums averaging 32.8 cents per hundredweight for the 12 month period over the minimum prices established by the order. The range in such premiums was from 13 cents to 87.7 cents per hundredweight. Receipts at these plants were about 45 percent of all receipts from producers at plants in northern New Jersey during this period.

Handlers operating pool plants in Orange County, New York during the period August 1956 through July 1957, paid premiums averaging 11.7 cents per hundredweight and ranging from 0 to 30.4 cents per hundredweight. Prices paid by handlers operating pool plants in New Jersey during the period August 1956 through July 1957 averaged 12.1 cents per hundredweight above the prices which would have been required as minimum order prices under order provisions made effective on August 1, 1957. During the same period handlers operating pool plants in Orange County also paid premiums but such premiums averaged 6.5 cents per hundredweight less than the prices which would have been required under order provisions which became effective on August 1, 1957. Thus, the above quoted finding in the prior decision is amply supported by evidence in the record of this hearing.

Those proposing elimination of direct delivery differentials contended that the history of premiums paid by Order No. 27 handlers prior to August 1, 1957, is not a proper basis for direct delivery differentials because such premiums were paid either in compliance with minimum price regulation of the State of New Jersey (Office of Milk Industry) or in competition with prices paid either by handlers subject to such regulation or by handlers obtaining milk from totally unregulated sources. In this connection, it should be recognized that there has been some degree of acceptance of the validity of these contentions in that, in most instances, the direct delivery differential rate is less than the rate of premium payments prior to August 1, 1957, and in that the history of premium payments is not the entire basis for direct delivery differentials but merely one indicator of the appropriate rate.

Support for the view that too much weight has not been given to the history of premium payments prior to full regulation is found in the record of premium payments over minimum order prices since August 1, 1957. During the period August 1957 through March 1958, premiums paid at plants in northern New Jersey which were pool plants prior to August 1, 1957, averaged 3.1 cents per hundredweight over the minimum prices established under the order including the direct delivery differentials. Such premiums ranged from —2.7 cents to 34.1 cents. Premiums paid during the period August 1957 through March 1958 at plants in Orange County which were pool plants prior to August 1, 1957, averaged 2.1 cents per hundredweight and ranged from —0.7 cents to 15.9 cents per hundredweight. Handlers operating plants in Orange County that were not pool plants prior to August 1, 1957, also have paid premiums since that time. The premiums at such plants averaged 6.8 cents in August 1957, 3.4 cents in November 1957, and 5.2 cents in March 1958. Similar premiums in Dutchess County averaged 23.1 cents in August 1957, 5.3 cents in November 1957 and 5.0 cents in March 1958. Corresponding premiums in Ulster County were 11.8 cents, 20.6 cents and 32.0 cents.

Other rather significant indications of the propriety of direct delivery differentials at the present rates are that (1) producers in the direct delivery differential area thus far have experienced no difficulty in retaining a market for their milk at plants at which direct delivery differentials are payable and (2) no pronounced shift has occurred in the number of producers from which milk is received at plants paying direct delivery differentials. There has been some shift between zones in the number of producers delivering milk to plants at which location differentials are paid. The greatest change occurred in the 1–10-mile zone where there was a reduction of 213 (from 489 to 276) in the number of producers from whom milk was received between August 1957 and June 1958. Most of this shift took place between November 1957 and February 1958 and is accounted for primarily by the discontinuance by one handler of the practice of receiving producer milk in cans at a pasteurizing and bottling plant at which milk also is received in bulk from other plants. During the same period (August 1957 to June 1958) the number of producers delivering milk to plants increased 110 (from 464 to 574) in the 11–30-mile zone, decreased 38 (from 2,150 to 2,061) in the 31–50-mile zone, increased 75 (from 1,203 to 1,278) in the 51–70-mile zone, and decreased 21 (from 52 to 31) in the 71–80-mile zone. Thus, in the aggregate for all zones from August 1957 to June 1958 there was a decrease in the number of producers delivering milk to plants paying a direct delivery differential of 138 (from 4,358 to 4,220). This is a reduction of 3.2 percent and only slightly higher than the percentage decline (2.4) during the same period in the total number of producers delivering to all pool plants. This indicates that direct delivery differentials (together, of course, with transportation

differentials) thus far have resulted in minimum prices for milk at plants in the direct delivery differential area which are reasonably in line with the prices applicable at other locations.

The order presently requires payment of direct delivery differentials on milk received directly from producers at plants in territory immediately surrounding Metropolitan New York-New Jersey. The rates are 20 cents for the 11–30-mile zone, 15 cents for the 31–50-mile zone, 10 cents for the 51–70-mile zone and 5 cents for the 71–80-mile zone with none applicable beyond 80 miles.

In connection with the establishment of these differentials, it was found in the decision of June 10, 1957, that "some handlers process milk for consumer distribution from plants located in the rural territory immediately surrounding the metropolitan area at which plants milk is received directly from producers. Many producers in the area throughout Northern New Jersey and the nearby counties of New York State deliver milk directly to plants where it is processed and pasteurized for the consumer. Also, in this same territory, there are a number of plants which do not process milk but merely cool it and ship it to a processing plant at another location." Further, concerning these pasteurizing and bottling plants in the fringe territory, it was found that the handler operating such a plant "may avoid the extra cost of operating two plants, but this saving may be off-set to some extent by the cost of transportation of processed milk and, consequently, the net saving may not be as great as in instances where the milk is received directly in the urban area." Accordingly, it was found that handlers operating pasteurizing and bottling plants in the fringe territory outside the 1–10-mile zone also (as in the case of handlers operating plants within the 1–10-mile zone) should pay direct delivery differentials, but at rates decreasing with distances from the metropolitan area. The primary basis for making the differentials applicable to milk received directly from producers at all plants in this fringe territory irrespective of the type of operation conducted at the plant was that (1) the requirement for milk for fluid use at pasteurizing and bottling plants in and immediately surrounding the metropolitan area exceeds the volume of all milk produced in the nearby territory, (2) all of the milk delivered by producers in this area is available (by reason of its location) for delivery directly to pasteurizing and bottling plants and (3) competition would force the payment of premiums at other plants in the same locality if direct delivery differentials were required only at certain plants depending on the classification of milk at the plant or upon whether pasteurizing or bottling operations were conducted at the plant. These findings are amply supported by evidence in the record of this hearing.

There appears to be no way in which appropriate declining rates of direct delivery differentials for the territory immediately surrounding Metropolitan New York-New Jersey may be calculated with precision by means of a mathematical formula employing exact monetary values representing the various factors involved. The factors and considerations justifying a 25-cent rate in the 1–10-mile zone (which themselves are not entirely susceptible of precise measurement) become applicable to a somewhat lesser degree at points surrounding the center of the metropolitan area. Moreover, the location value of milk in the fringe area is influenced by factors not present, at least to the same degree, in the center of the metropolitan area, with the result that gradually, but not abruptly at the 1–10-mile zone, a point is reached (80-mile zone) where milk received from producers has no location value different from that resulting from application of transportation differentials reflecting the variable cost of transportation.

To elaborate, it is evident that the location value of milk received from producers at a pasteurizing and bottling plant in the western portion of Northern New Jersey or in Orange County, New York (40–60 miles) from which milk is distributed both locally and into the metropolitan center is lower by some amount (although not measurable precisely) than the value at a plant in the metropolitan center from which milk is there distributed. In both cases, a charge for country plant handling is avoided but the outlying plant incurs expense in moving packaged milk to the consuming center. Thus, there is suggested the possibility of fixing a direct delivery differential rate at the outlying plant of 15 cents (10 cents less than for the 1–10-mile zone and which presently is the rate for the 31–50-mile zone) on the basis that at that location there is no net saving of the fixed cost of transportation. However, the picture is complicated by other considerations. There appears to be considerable merit in the concept that with increasing distance from the metropolitan center, where there is a lower density of urban population together with more locally produced milk relative to local fluid sales, country plant milk (carrying a handling charge) is not necessarily the most economical alternative source of supply.

The finding previously made to the effect that, because of competition among all plants, the specified rate of direct delivery differential should be paid at all plants at a given location irrespective of the type of operations conducted, was questioned at the hearing as being unsound since approximately 70 percent of the milk received from producers at plants in the three western counties of Northern New Jersey and Orange County is received at plants commonly referred to as country receiving stations with only 30 percent received at pasteurizing and bottling plants. These figures provide a distorted picture however, since it also was established that a substantial (though not exactly indicated) number of producers located in these specified counties deliver milk, not to either type of plant in these counties, but directly to pasteurizing and bottling plants located in or much closer to the metropolitan consuming center. The opportunity afforded these nearby producers to deliver their milk directly into the 1–10-mile zone has an impact on the location value of their milk when delivered to plants located nearer to their farms. In effect, at the transportation differential rates herein provided and at the present direct delivery differential rates, producers delivering to plants in the 31–50-mile zone have from 13.6 to 14.8 cents, and those in the 51–70-mile zone have from 16 to 17.2 cents, to cover the cost of hauling their milk to a plant in the 1–10-mile zone rather than to a plant in the same zone as the farm. As previously found herein, no significant shift in point of delivery has occurred thus far at the present rates. Revision of transportation differentials as herein provided, will result in a price at a plant in the 51–60-mile zone one cent higher than at present, relative to the 1–10-mile zone price but three cents lower than at present relative to the 201–210-mile zone price.

Although the fact that some milk subject to direct delivery differentials is received at plants not engaged in pasteurizing and bottling is again found not to justify a different differential rate for such plants, there is the question of the extent to which the type of facilities currently utilized appropriately may be recognized in establishing the rate applicable at all plants similarly located. All plants inside the 30-mile zone receiving milk from producers are pasteurizing and bottling plants. In the 31–40-mile zone there are 26 plants receiving milk from producers and only 4 of these operate only as receiving and bulk shipping plants. Corresponding figures for the 41–50-mile zone are 37 and 13; for the 51–60-mile zone, 28 and 5; for the 61–70-mile zone, 7 and 3, and for the 71–80-mile zone, 5 and none. The volume at plants not engaged in pasteurizing averages larger with the result that at least 50 percent of all milk received from producers at plants both in the 31–50-mile zone and in the 51–70-mile zone is received at plants not engaged in pasteurizing and bottling.

However, recognition also must be given to the opportunity afforded producers located in these nearby zones of delivering their milk to pasteurizing and bottling plants located either in an outlying zone or within the 1–10-mile zone. The rates by zones outside the 1–10-mile zone also must bear a relationship to the 1–10-mile zone rate which recognizes hauling costs of farm to plant hauls somewhat higher than cost variations reflected in transportation differentials based on hauling costs in large tank trucks. Moreover, as previously indicated, there has been no significant shift in points of delivery as would be expected if the variation in rates by zones did not constitute a substantial reflection of true location values. Accordingly, the present variation in zone rates is found to give as much recognition to the type of handling facilities currently employed as is appropriate, and otherwise properly to reflect the location value of milk in the respective zones.

As previously indicated herein, it is concluded that provisions of the order for payment of direct delivery differen-

tials at the presently specified locations in Upstate New York also should be continued. The payment of such differentials presently is required at plants in and around Syracuse and the Capital district. The present rate is 5 cents except for about two-thirds of the milk in the Capital district on which the rate is 10 cents.

It was found in the decision of June 10, 1957, that analysis of the premiums paid by local distributors in upstate areas before extension of the marketing area indicated that such premiums (1) varied rather widely both among districts and among dealers in the same district, (2) were influenced by a wide variety of factors, (3) appeared to be paid in amounts necessary to provide the dealer with the particular milk best suited to his needs and (4) probably would continue to be paid following extension of regulation to those areas. It was concluded in that decision (and effectuated in amendments effective August 1, 1957) that provision should be made for direct delivery differentials in the Capital and Syracuse districts "in order to insure an orderly transition from nonregulated to regulated status."

Evidence in the record of this hearing indicates that an orderly transition to a regulated status is taking place and that, as anticipated, the payment by local dealers of premiums over minimum order prices has continued. In the months of August 1957, November 1957 and March 1958, premiums over minimum order prices averaged about 8 cents in Syracuse, 7 cents in the 5-cent part of the Capital district and 2 cents in the 10-cent part of the Capital district. Such premiums varied over a wide range to as high as 81 cents. By and large, however, the factors and conditions previously found to justify the payment of direct delivery differentials in the specified upstate areas are found on the record of this hearing to continue to exist, thus justifying continuation of such provisions, at least for the present, in order to insure payments to producers properly reflecting the location value of their milk.

It is recognized that, unlike the situation in Metropolitan New York-New Jersey, pasteurizing and bottling plants in upstate areas are so located that the volume of milk available from the production of nearby farms is more than sufficient to meet the entire requirements of such plants with the excess supply over such requirements remaining for delivery to nearby country plants. Under such circumstances, country plant milk is not an economical alternative source of supply in most instances, and the location value of direct delivered milk is less than in the metropolitan area. However, additional services provided and costs incurred by producers in delivery of their milk to pasteurizing and bottling plants represent values properly to be reflected in minimum prices established under the order.

In addition to proposals for complete elimination of direct delivery differentials in the upstate areas (to which the immediately preceding findings relate), other proposals were made by two cooperative associations of producers handling milk in upstate areas which is subject to direct delivery differentials but which is used partially for distribution upstate and partially shipped to the metropolitan area. Such proposals were that the differential either be eliminated on all or a part of such milk or that it be paid out of the pool rather than by the handler receiving the milk. The evidence submitted on these proposals, however, does not provide a basis for their adoption. The location of the plants involved justifies the payment of direct delivery differentials at such plants the same as to other plants similarly located irrespective of how such milk is utilized.

Proposals to require the payment of direct delivery differentials in additional upstate areas were not supported by evidence justifying their adoption or not considered in the prior decision. No evidence was presented showing a need for such differentials in areas where they presently are not required.

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 request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the 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, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Certain exceptions filed herein relate to the propriety of the participation by officials of the Office of Milk Industry of the State of New Jersey in this proceeding. This issue was certified to the Secretary by the Presiding Officer on June 27, 1956 and decided adversely to the moving parties on July 6, 1956. It was again certified by the Presiding Officer, in connection with the hearing in this proceeding, on August 20, 1958, and again decided adversely to the moving parties on September 12, 1958. Both of these rulings of the Secretary are a part of this record, have again been considered, and are hereby affirmed and adopted as a part hereof as if set out in full herein.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the New York-New Jersey milk marketing area", and "Order amending the order regulating the handling of milk in the New York-New Jersey milk marketing area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the New York-New Jersey milk marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of February 1959 is hereby determined to be the representative period for the conduct of such referendum.

C. J. Blanford is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), except: (1) The above designated agent of the Secretary shall not be required to trans-

mit with his report to the Secretary a copy of each statement concerning the referendum as it appeared in each newspaper, but he shall transmit with his report a copy of the release which he presented to newspapers generally distributed in the area along with a summary of the numbers and types of newspapers to which it was presented; and (2) the time within which the complete detailed report of the above designated agent shall be transmitted to the Secretary is hereby extended to five days after the close of the referendum. Such referendum shall be completed on or before the 35th day from the date this decision is published in the FEDERAL REGISTER.

As a means of effectuating certain policies jointly adopted by the Secretary and the Commissioner of Agriculture and Markets of the State of New York in a memorandum of cooperation dated August 26, 1938, and by the Secretary and the Director of the New Jersey Office of Milk Industry in a memorandum of agreement dated June 30, 1955, the designated agent of the Secretary shall, at the same time he transmits his report to the Secretary, also transmit a similar report to the Commissioner of Agriculture and Markets of the State of New York, and to the Director of the Office of Milk Industry of the State of New Jersey.

Issued at Washington, D.C., this 9th day of June, 1959.

CLARENCE L. MILLER,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the New York-New Jersey Milk Marketing Area

§ 927.0 Findings and determinations.

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

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

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

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

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

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

Amend § 927.42 by deleting transportation differential rates set forth in Column B of the schedule therein and by substituting the following new rates in Column B:

A Freight zone	B Classes I-A, I-B and skim milk subject to the fluid skim differential
Miles:	*Cents per hundredweight*
1-10	+24.0
11-20	+22.8
21-25	+21.6
26-30	+21.6
31-40	+20.4
41-50	+19.2
51-60	+18.0
61-70	+16.8
71-75	+15.6
76-80	+15.6
81-90	+14.4
91-100	+13.2
101-110	+12.0
111-120	+10.8
121-125	+9.6
126-130	+9.6
131-140	+8.4
141-150	+7.2
151-160	+6.0
161-170	+4.8
171-175	+3.6
176-180	+3.6
181-190	+2.4
191-200	+1.2
201-210	+0.0
211-220	−1.2
221-225	−2.4
226-230	−2.4
231-240	−3.6
241-250	−4.8
251-260	−6.0
261-270	−7.2
271-275	−8.4
276-280	−8.4
281-290	−9.6
291-300	−10.8
301-310	−12.0
311-320	−13.2
321-325	−14.4
326-330	−14.4
331-340	−15.6
341-350	−16.8
351-360	−18.0
361-370	−19.2
371-375	−20.4
376-380	−20.4
381-390	−21.6
391-400	−22.8
401 and over	−24.0

[F.R. Doc. 59-4918; Filed, June 12, 1959; 8:47 a.m.]

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

[7 CFR Parts 960, 975]

[Docket Nos. AO-179-A17 and AO-253-A4]

MILK IN CLEVELAND, OHIO, AND AKRON-STARK COUNTY, OHIO, MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure 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 proposed amendments to the tentative marketing agreements, and orders regulating the handling of milk in the Cleveland, Ohio, and Akron-Stark County, Ohio, marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 15th 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 amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, were formulated, was conducted at Cleveland, Ohio, on February 24-28, 1959, pursuant to notices thereof which were issued December 22, 1958 (23 F.R. 10373), and January 14, 1959 (24 F.R. 428).

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

1. Merger of the orders into a single regulation;

2. Extension of the marketing area;

3. Provisions of the merged order with particular respect to

(a) Milk to be regulated and to be pooled;

(b) Classification and accounting provisions;

(c) Class prices;

(d) Location adjustments;

(e) The quota plan;

(f) Producer butterfat differential; and

(g) Administrative provisions.

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

1. *Combination of orders.* Order No. 60 regulating the handling of milk in the Akron-Stark County, Ohio, marketing area and Order No. 75 regulating the handling of milk in the Cleveland, Ohio, marketing area should be merged into a single regulation. The marketing area of the consolidated regulation should be

redesignated as the "Northeastern Ohio marketing area".

The very substantial competition in procurement and sales of milk between dealers regulated under the Cleveland order and those regulated under the Akron-Stark County order has already been recognized by providing identical Class I prices under the two orders. These prices are adjusted for supply-sales relationships on the basis of the total producer receipts and Class I sales of the two markets. Class II and Class III prices are also identical. Identical provisions now apply also with respect to the shipments supply plants must make to achieve or retain pool status. Identical quota plans are incorporated in the orders as a method of distributing returns to producers. Many other order provisions are closely aligned.

This close alignment of prices and provisions is necessary because substantial volumes of milk priced under each order have been sold in the marketing area of the other order. It is presently estimated that 20 percent of all Class I milk sold in the Akron-Stark County area is distributed from plants under the Cleveland order. Prior to July 1957, a substantial volume of milk was sold in the Cleveland area by an Akron-Stark County handler. Since that date, this handler's sales in Cleveland have exceeded those in the Akron-Stark County area and as a consequence he now sells Cleveland milk in the Akron-Stark County area. Other Cleveland handlers have substantial sales in the Akron-Stark County area. One handler with multiple plants under the Cleveland order also has plants in Akron and Canton subject to the Akron-Stark County order.

The Akron-Stark County milk procurement area is wholly encompassed within that of the Cleveland market, and represents a substantial part of the area from which milk is delivered directly from producers' farms to plants bottling milk for the Cleveland market. Inspection requirements of the markets are substantially the same so that producers shift readily from one to the other. Plant inspections are accepted on a reciprocal basis without dual inspection.

Consolidation of the regulations will provide stability to producers by reflecting in one uniform price the fluid milk sales of all handlers rather than dividing them into two pools. There was no opposition expressed to the merger proposed by four of the larger cooperative associations representing producers under the two orders. It is concluded that a single regulation (an amended Order No. 75) should replace the separate orders. The combined marketing area may appropriately be designated the "Northeastern Ohio marketing area".

To accomplish the merger effectively and most equitably the assets in the custody of the market administrator in the administrative, marketing service, and producer-settlement funds under the Akron-Stark County order should be merged with assets in similar funds under the Cleveland order and any liabilities of such funds of the individual orders should be paid from the new funds so created. To distribute such funds under one order to producers and handlers under that order would unduly burden the producers and handlers now regulated by the other order. To distribute the funds under both orders and again accumulate the necessary reserves would entail considerable administrative detail to no good purpose.

2. *Marketing area.* Two townships in Medina County should be added to the marketing area. Proposals to add the area not now regulated in Lake and Ashtabula Counties, Tuscarawas County, one additional township in Medina County and nine townships in Wayne County should not be adopted on the basis of this record.

Of four proposals to merge the marketing area included in the notice of hearing, that to add those portions of Lake and Ashtabula Counties not now included in the marketing area brought forth the bulk of the testimony. The Cleveland marketing area presently includes three townships and the City of Painesville in Lake County and the City of Ashtabula in Ashtabula County. Five townships in Lake County and 28 in Ashtabula County would have been added (in whole or in part) by the proposals.

Cleveland handlers with plants in or near the presently regulated portions of these two counties assert that they have substantial sales in the unregulated portion of these counties and that their unregulated competitors have procurement advantages. The presently regulated handlers do have the predominance of Class I sales in Lake County and in the northern portion of Ashtabula County, exclusive of the City of Conneaut and its immediate vicinity. Only plants located in or in the vicinity of Conneaut are permitted to sell milk in that city. In the southern portion of Ashtabula County distribution by unregulated handlers predominates.

The record fails, however, to support the contention of procurement disadvantage to the regulated handlers. Proponents failed to show any specific paying prices that would substantiate the claimed lower costs to unregulated handlers selling in those portions of Lake and Ashtabula Counties not now in the Cleveland marketing area.

To extend the area as proposed would either price and pool a part of the Youngstown supply for which a cooperative association has negotiated class prices for a long period of years, or in the alternative would require dealers to stop deliveries to areas they have served for a number of years. In view of the lack of evidence of competitive disadvantage and certain positive testimony that some larger unregulated dealers selling in the area now enjoy no such advantage, it is concluded that the proposal should not be adopted on the basis of this record.

No evidence was offered in support of a proposal to include Tuscarawas County in the marketing area. This proposal is therefore denied.

Wadsworth and Sharon Townships in Medina County should be added to the marketing area. The City of Wadsworth, with a population of approximately 10,000 people, adjoins the present Akron-Stark County area and is wholly served by handlers presently regulated. Milk sales in Sharon Township are likewise wholly served by regulated dealers, and inclusion of Wadsworth Township would surround Sharon Township by regulated area. It is concluded that these two townships should be included in the marketing area.

The proposal to extend the area into nine townships in Wayne County and one additional township in Medina County would bring under regulation at least one additional handler whose area of distribution is not clearly defined on the record. The proponent handler operates a plant located in the area proposed, but it is regulated on the basis of sales in the present marketing area. This handler also has a larger volume of sales in Wadsworth than any other dealer. His proposal to include the remaining territory in which he sells should not be adopted at this time.

3. *Order provisions.* The majority of the provisions of a milk order apply to the individual operations of handlers in determining the classification and minimum value of receipts of milk from producers by each handler. The effects of similar provisions of such nature in two separate orders are not changed when the two orders are combined into a single regulation. The close alignment of numerous order provisions between the Cleveland and Akron-Stark County orders has already been mentioned. Those provisions with respect to which there are substantial differences or for which changes were proposed in the hearing are discussed below:

(a) *Milk to be regulated and pooled.* As the result of a recent amendment to the Akron-Stark County order the conditions under which plants qualify their receipts for pooling are substantially the same under the two orders. The Cleveland order permits a handler operating two or more supply plants to operate such plants as a unit on the basis of aggregate receipts and shipments. Both orders exempt from pricing and pooling the receipts of distribution plants located outside the marketing area with daily average distribution of less than 300 points of Class I milk in the area. The Cleveland order does not regulate in any way the operations of a plant which distributes only cream in the marketing area. The Cleveland order, in addition, does not price nor pool the receipts of any distributing plant unless half or more of its receipts of approved milk are distributed on routes, but not necessarily in the marketing area. The handler operating such a plant is required to pay compensatory payments on his Class I sales in the area.

The aggregate performance provision for supply plants now in the Cleveland order should be included in the merged order to permit continuation of existing supply relationships. Likewise, the requirement that distributing plants have fluid distribution of half or more of their receipts is needed to distinguish those plants primarily engaged in fluid

distribution from those which should be required to qualify for pool participation through the shipments required of supply plants.

It was proposed to extend regulation to plants which might confine their in-area distribution to cream or cottage cheese (a Class II product). Regulation should not be extended to those plants which distribute only Class II products or bulk cream. To price and pool the receipts of such plants might include in the marketwide pool a considerable volume of milk not qualified for distribution as fluid milk. Applicable location adjustment would in most cases equal or exceed the 30 cents per hundredweight by which the Class II price exceeds that of Class III milk.

The cooperative associations proposing the combined order also proposed that provision be made for pooling receipts of a supply plant operated by a cooperative association on the basis of overall performance of the association rather than shipments from the plant. Two of these associations jointly have recently acquired and are now operating three plants which have been regularly qualified as Cleveland supply plants for a number of years. It was proposed that a plant operated by a cooperative association be pooled if two-thirds of its member producers' milk had been delivered to the pool plants of other handlers during six of the seven preceding months.

It is claimed that the three plants are now operated as auxiliary supply and surplus disposal operations which supplement the principal function of the cooperative in supplying the needs of other handlers. Under the present shipping requirements of 30 percent or more of receipts during the months of August through January, the association has been unable to receive some production excess to the needs of bottling handlers.

Two of the plants (one equipped only for receiving milk) are relatively near the market within the area at which no location adjustments will apply in the combined order. The third is 225 miles from Cleveland. It appears that the principal function for which special consideration may be given is that incident to surplus disposal for bottling plants. Only plants relatively near the market can perform this function. It is concluded that cooperative plants whose receipts may be pooled without meeting stated shipping performance requirements should be limited to those within the zone for which no location adjustments are applicable. The association requirement in lieu of such shipments should be that during the preceding six-month period, two-thirds of the producer member milk of the association, exclusive of that delivered to other supply plants, have been received at pool bottling plants. Such requirements will limit the pooling privilege to those situations in which it appears that a cooperative plant can perform a service to the market that might be limited by shipping requirements. The extent to which pool bottling plants are receiving milk in bulk tanks from farms has reduced the demand for supply plant milk from the nearby plants, and has increased the need for readily available surplus outlets in this area.

It was suggested at the hearing that a "call" provision under which the market administrator might require shipments up to a specified percentage of receipts in periods of short supply might be included in the order to insure that any cooperative plants afforded pooling privileges supply the needs of the market to the fullest extent possible. The record is not clear, however, as to whether the proposed "call" provision would affect all supply plants or only the qualified cooperative plant, nor the mechanics by which the market administrator might determine the shipments to be required. Neither does the record provide a basis for integration of such requirements with specific minimum shipments through which any plant may now qualify. For these reasons a suitable "call" provision cannot be provided on the basis of this record.

The Akron-Stark County order provides for pooling milk of producers diverted to nonpool plants for the account of a handler or cooperative association in all months of the year, while the Cleveland order restricts this privilege to the months of April through July. By suspension action such diversion has also been permitted under the Cleveland order during January through March in each of the years 1958 and 1959. Weekly schedules of plant operations and distribution of sales throughout the week now make it desirable that diversion be permitted in all months of the year. Producers proposed that the period for which a single producer's milk might be diverted by a proprietary handler be limited to 15 days in each month but that there be no limit on the diversion by cooperatives. This proposal should not be adopted. While the record indicates the desirability of incorporating in the order some standard of association with the market that would determine the producers eligible to retain pool status on milk diverted to nonpool plants by either a cooperative association or a proprietary handler, it does not provide the detail necessary to determine the standard that would be appropriate. No pressing problems have so far arisen under the Akron-Stark County provisions or under the Cleveland order when the limitations were suspended. Should experience show the need to limit diversion to nonpool plants or to define the producers eligible for diversion the matter may be considered in a future hearing.

In view of diversions that now take place between plants regulated by the North Central Ohio and plants regulated by the Cleveland order, the order should exclude from the definition of producer those farmers who retain status as producers under another order when their milk is diverted to a pool plant.

(b) *Classification and accounting.* With the exception of eggnog the products classified as Class I are essentially the same in the present orders. There are, however, differences in transfer, allocation and accounting provisions which affect the volume of producer milk paid for in each class. Changes in classification and accounting provisions were proposed that are not included in either order.

Eggnog is essentially the same as ice cream mix, a Class III product, and should be classified in the same class. Health ordinances do not require eggnog to be made from Grade A milk.

Fluid milk products disposed of in bulk to commercial food processing establishments for use in food products prepared for general distribution, rather than consumption on the premises, should be Class III milk. This is the applicable classification under the Akron-Stark County order; under the Cleveland order such disposition is Class I milk. Grade A milk is not required for use in these products.

Handlers proposed that sour cream and bulk sweet cream be classified as Class II milk. The health department of the City of Cleveland issues cream permits to plants which are not permitted to supply milk for fluid use in the city. Under these permits bulk sweet cream, and packaged sour cream are distributed without a Grade A label through brokers and jobbers without being subject to regulation. To regulate such plants could result in including in the pool a large volume of milk which would not qualify for the fluid needs of the market. If bulk sweet cream were classified as Class II, while packaged sweet cream were classified as Class I, serious administrative difficulties would be encountered in correctly establishing the classification of cream sales. A considerable portion of the bulk sweet cream sales that handlers cite as being from unregulated plants are to commercial food processing plants for which Class III utilization is provided. In view of these circumstances the proposal to classify as Class II sweet cream disposed of in bulk is denied.

Sour cream should be classified in Class II. The Cleveland and Akron-Stark County order presently classify sour cream in Class I. The health department of the City of Cleveland does not require that sour cream distributed in the marketing area carry a Grade A label, whether in bulk or packaged form. The majority of the sour cream distributed in the marketing area from unregulated sources is in packaged form. The proposed Class II classification of all sour cream will create no administrative problem such as with the bulk sweet cream and will allow regulated handlers to compete for sales of this product.

Provisions similar to those of the Akron-Stark County order should be included to classify inventories of fluid milk products (products which either usually become Class I upon disposition, or are unprocessed milk, skim milk or cream) as Class III utilization subject to a further charge if allocated to a higher utilization in the following month. Such inventories must enter into the accounting for current receipts and utilization. Uniformity of minimum prices to handlers and simplicity of accounting are achieved if, so far as possible, Class I utilization in each month is assigned to current receipts of producer milk.

Classification of month end inventories at the lowest class of use and allocation of beginning inventories in series beginning with the lowest class furthers this objective. Should opening inventory be allocated to a higher class utilization, provisions are included to equalize prices with those which apply to current receipts of producer milk or other source milk, as applicable.

In order that Class I utilization may first be assigned to current receipts of producer milk, the definition of other source milk includes any nonfluid milk products reprocessed or converted into other products. Heretofore, the Cleveland order has required that milk in such products be reclassified; this involves determination of the months of receipt. Under this system and other language of the order, handlers receiving nonfluid milk products made from producer milk have been treated differently from those reprocessing other source nonfluid milk products for fortification of Class I products by addition of nonfat milk solids. Defining all such products as other source milk, whether made in a pool plant from producer milk or purchased from other sources, will eliminate such difference in treatment.

It was proposed in this connection that concentrated skim milk products used for fortification of a Class I product or in a Class II product be classified on a product pound basis. It was asserted that a decline in recent years in the average nonfat solids content of producer milk receipts required addition of solids to certain skim milk products. The proposal was designed to restrict the cost of such products to a volume of skim milk in producer milk equal to the volume of fortified milk sold, rather than the volume required to produce the solids disposed of as fortified milk. For accounting purposes it is necessary that receipts and disposition be accounted for on the same basis. For some other products, such as reconstituted milk, the volume to be considered must include all the water originally associated with the concentrated solids. This is the only basis upon which uniform accounting may be accomplished. Consideration may be given, however, to the classification to be accorded the skim milk equivalent of concentrated solids used in fortification.

Health regulations require that solids used for fortification be from Grade A milk. There are adequate supplies of producer milk in the Northeastern Ohio market to provide the solids required for fortification and facilities for concentration of such solids. The skim milk equivalent of such solids should be Class I utilization on the same basis as that of the solids in the producer skim milk to which they are added.

Cream should be deleted from the products classified as Class I milk when transferred to a nonpool plant more than 265 miles from Cleveland. Because of its concentrated form, cream is often moved long distances for manufacturing use.

With respect to the applicable rules for classification of transfers to nonpool plants within 265 miles, the Cleveland order at present permits classification in any class claimed for which there is equivalent use in the nonpool plant. The Akron-Stark County order assigns all transfers to nonpool plants, wherever located, to the highest class of use by the nonpool plant in excess of its receipts from its regular dairy farm supply. Cooperatives proposed in the notice of hearing that the Cleveland transfer rules apply. At the hearing it was suggested that the classification of milk transferred to nonpool plants might be at the highest class of use in the nonpool plant. The record fails, however, to explore in sufficient detail the circumstances under which movements of milk to nonpool plants now take place to provide a basis for substantial change in present provisions. In view of the substantially greater volume of milk that is currently being classified under the Cleveland provisions, the principle of equivalent use should continue until there is opportunity for more detailed consideration at a future hearing. Modification should be made, however, to recognize the possibility that there may be transfers to a single nonpool plant from more than one pool plant, and from plants regulated under other orders, and to require use equivalent to the total of all such movements.

The Cleveland order presently permits division of the shrinkage allowance with respect to bulk movements between pool plants. The amended order provides that in all such cases there be .5 percent shrinkage allowance to the transferring plant and 1.5 percent to the transferee plant. This more nearly represents normal experience in such transactions.

It was proposed that fluid milk products in packaged form received from a plant subject to another Federal order be deducted from the Class I disposition of the receiving plant. Such a provision is now in the Akron-Stark County order. It was contained in the Akron order before it was merged with the Stark County order to form the present regulation. At that time it recognized a long standing arrangement between an Akron dealer and a Stark County dealer. Presently no such movements are occurring. A plant of the handler proposing retention of the provision has, however, as of January 1959 been transferred from regulation of the Cleveland order to that of the North Central Ohio order. Certain products packaged at this plant had up to that time been distributed in the Cleveland marketing area through another plant of the same handler. This handler has other plants under the Cleveland order at which these products can and are being processed. Additional such plants of the same handler will be included under the same regulation by the action to combine orders. There appears in this case no economic reason to provide for Class I sales to be assigned as proposed.

A proposal to permit a handler to elect to have his obligations computed on more than one accounting period within a month should not be adopted on the basis of this record. Supply conditions in the Northeastern Ohio market are not now such that handlers need fear shortages in parts of months. The order combination herein effected makes the supply plant milk which heretofore has been producer milk only at Cleveland plants also producer milk at Akron and Stark County plants, and will thus diminish the likelihood that producer milk will not be available.

A proposal that compensatory payments on unpriced other source milk allocated to Class I milk apply only when the market supply of producer milk for the month exceeds 120 percent of Class I sales, rather than 110 percent as presently provided, should not be adopted. However, in view of the provisions made for diversion to nonpool plants in all months, a provision now in the Akron-Stark County order should be included with respect to the computation of the level of market supply that determines the applicability of such payments. Under this provision milk diverted to nonpool plants for the account of a cooperative association is included in the computation only if the association furnishes evidence that such milk was offered to handlers at order prices. Such a provision discourages unnecessary diversion when market supplies approach minimum reserve levels.

(c) *Class prices*—(1) *Class I price.* The Class I differentials and supply-demand adjustment should be changed to modify the seasonal pattern without substantial change in the annual average level of the Class I price.

The Class I price applicable to both orders is now determined by adding to a basic formula price $1.40 for the months of February through July and $1.85 for other months. An adjustment is then made based on the deviation from an established norm of the ratio of milk supplies to Class I sales in the most recent two-month period.

The seasonal reduction of differentials in February has not been fully effective in either 1958 or 1959. Northeastern Ohio is an area of severe winters which do not permit reduction in production costs until approximately April. Dealers are reluctant to change resale prices at this season. Producers proposed that the Class I differential be uniform for all months; handlers proposed that a higher rate prevail August through March and a seasonally lower rate for the other four months.

Milk supplies have increased faster than Class I sales from 1957 to 1958; for 1957 supplies were 132 percent of sales and for 1958, 139 percent. Under these circumstances an increase in the annual average of the Class I differential which would make any significant increase in the level of the Class I price is not appropriate under the standards of the Act. The handler proposal that the differential be $1.35 for the months of April through July and $1.80 for other months approximates the present level and should result in no increase in producer prices with the classification changes proposed herein. It should be adopted.

A continued change in the pattern of production in the market requires adjustment in the seasonal pattern of standard utilization percentages used in the supply-demand adjuster. While the

present utilization percentages reflect to some extent the changes in seasonality that began in 1956, they fail to reflect the full extent to which the variation in utilization between fall and spring seasons has narrowed. They should be revised as follows to reflect the average three-year (1956–1958) experience:

	Present standard	*Revised standard*
January	123	128
February	126	128
March	129	128
April	132	129
May	135	130
June	144	140
July	149	148
August	144	141
September	131	127
October	125	126
November	123	128
December	122	130

The month listed is in each case that for which a price is being computed so that the percentages opposite are those of the two-month period immediately preceding. The annual average of these percentages is 132, the same as the current standard.

(2) *Class III price.* The Class III price should not be revised.

The Class III milk price in the Cleveland and Akron-Stark County orders is determined by using the basic formula price which is the higher of a midwest condensery price or a butter-powder formula price.

Wayne Cooperative Milk Producers, Inc. proposed that the Class III milk price should be the basic formula price less 20 cents during the months of March, April, May and June. This proposal was modified at the hearing to one that would allow a 5-cent credit on each pound of butterfat that was used in the manufacture of butter during the months. The reason given was that at the present Class III price level during the flush months it has had difficulty in handling surplus milk without financial loss. A loss incurred in the production of butter and nonfat dry milk powder amounting to about 20 cents per hundredweight of milk is claimed.

In opposing, a cooperative association testified that a reduction in the Class III price would reduce returns to producers. It was also claimed that a low Class III price serves to encourage plants with manufacturing facilities to carry more than adequate reserve supply to insure the fluid needs of the market.

In 1958, 7.51 percent of the total butterfat received in producer milk under the Cleveland and Akron-Stark County orders was made into butter, and 4.18 percent was used to make hard type cheese. Both these products are purchased under the Government price support program at prices designed to reflect a single national average level of prices to dairy farmers for manufacturing milk. Decreasing the minimum price of butterfat used to manufacture butter would require consideration of similar action with respect to the butterfat used for making cheese. Milk used to produce hard cheese in 1957 and 1958 represented 1.5 and 3.2 percent of producer receipts, respectively. Official notice is taken of the monthly statistics published by the market administrator with respect to the disposition of receipts by pool handlers for the years 1957 and 1958.

Market supplies have been handled in recent years without indication of there being "distress milk" on the market. The cooperative association that opposed reduction of the Class III price has disposed of a substantial volume of milk to nonpool plants in the past year. Other cooperative associations which operate surplus disposal plants offered no testimony in support of the proposal.

The present Class III price is in good alignment with the average prices paid farmers in the milkshed States of Ohio, Michigan and Indiana for milk used for comparable products. Prices are reported for all three States for milk bought by condenseries primarily for evaporated milk and for milk used in making American cheese; prices are reported for Ohio and Michigan for milk used in making butter and creamery by-products. For 1958 the annual average Class III price, adjusted to the reported butterfat test in each instance, exceeded that of four of these series and was less than the average price of the other four. The differences ranged from one to ten cents per hundredweight with the Class III price exceeding the simple average of the eight series by two cents.

In view of the above facts the Class III price as now determined in Cleveland, Akron-Stark County reflects an appropriate value for milk used to manufacture dairy products and should continue to be used to determine the Class III price in the attached order.

(d) *Location adjustments.* Location adjustments to handlers and producers at a rate presently provided in each order should apply with respect to milk received at pool plants located 40 miles or more from the Public Square in Cleveland and 27.5 miles or more from the nearer of the City Halls in Akron or Canton.

The Cleveland order presently provides location adjustments at all pool plants located 40 miles or more from Cleveland. The Akron-Stark County order provides such adjustments at plants located 40 miles or more from the nearer of Cleveland, Akron or Canton. The rate at any plant beyond these points is identical, and is based on the distance from Cleveland. Four plants presently regulated under the Cleveland order are more than 40 miles from Cleveland but less than 40 miles from the nearer of Akron or Canton. One of these is in the immediate vicinity of a bottling plant which has been regulated at the full f.o.b. Akron-Stark County prices since the beginning of regulation in Akron. This Cleveland plant and a receiving station associated with it which is similarly situated with respect to the 40-mile limit are operated by a cooperative association and, if in the zone of no location, will be eligible for pooling under the provisions included for "standby plants" operated by cooperative associations. The other two plants are farther removed from bottling plants presently regulated under the Akron-Stark County order, and must rely on shipments to bottling plants to maintain pool qualification. Without the applicable location adjustment the handlers operating these plants may not be able to compete with other supply plants. These plants are each approximately 30 miles from the nearer of Akron or Canton. A zone of no location adjustment extending 40 miles from Cleveland and 27.5 miles from the nearer of Akron or Canton appears appropriate for the situation at this time. No proposal was made to alter the rates of location adjustment beyond adjustment of the differing areas for which no rates apply under the two orders.

Provisions should also be made to define "reload point" at which location adjustments would apply with respect to milk regularly transferred at such points from one bulk tank to another in the course of movement from farms to a milk plant. Bulk tank handling methods permit delivery of milk to plants at considerable distances from the farms of producers. Transfer of milk in the country from farm pickup tanks to larger tanks facilitates economical movement over longer distances. The Cleveland Board of Health has established standards for installations at which such transfer may be made. These include a covered building and tank washing facilities. Producers whose milk is received at distributing plants in the marketing area by bulk tank now receive the f.o.b. market price when their milk is diverted to a nonpool plant. Milk normally assembled at a reload point in a zone for which location adjustments apply may be diverted to a nearby plant and the producers receive substantially higher prices than producers delivering to a pool plant in that zone. Definition of a reload point as a pricing point will provide uniformity of treatment to producers. It was proposed that any reload point located at the premises of a pool plant should be considered as part of the operations of such plant, and that any other reload point should qualify for pool participation on the same basis as a supply plant. It was further proposed to limit the defined points to those approved by health authorities and operated by handlers. It is concluded that reload points should be limited to those installations approved by health authorities and, if on the premises of a pool plant, be considered part of such plant's operations. Otherwise the operations of a reload point should be considered for all purposes, except point of pricing, to be a part of the operations of the pool plant to which a major part of the milk passing through it normally moves. This will insure that the handlers now responsible for reports and payments for such milk will continue in that status, and will provide a more satisfactory basis for determination of pool status of the milk assembled at reload points.

Handlers receive location credit with respect to milk classified as Class I or Class II. Certain changes should be made in the order in which location adjustment credits are assigned with respect to interplant movements of milk. Since movements between plants of different handlers may be classified by

agreement of the handlers and there is no provision for assigning classification to the individual plants of a multiple plant operator, assignment provisions must be included so that producers do not pay transportation costs on unnecessary movements of milk. Interplant movements are usually from supply plants to distributing plants. Credit for such movements should be limited to 108 percent of the volume required for Class I or II use at the transferee plant, less direct receipts from producers at such plant. Producers proposed the 8 percent "tolerance" as a reasonable minimum reserve required on an individual plant basis over the month's operations. Provision for a 5 percent "tolerance" is presently included in the Akron-Stark County order. Experience of a representative group of Cleveland dealers shows that receipts exceeded 108 percent of Class I and II utilization in a majority of months during which shipments were received from supply plants. Provisions are also included to define the maximum volume eligible for location adjustment with respect to any movement that might be made to a supply plant.

Where there are movements to a distributing plant from more than one plant, location adjustments should be assigned in the order that will result in the least total adjustment, with the exception that first priority of assignment be given receipts through any reload points considered to be a part of the operations of the transferee plant. This recognizes the association, fixed under other order provisions, between the distributing plant and such reload points.

(e) *Quota plan.* The provisions concerning the quota plan should not be changed except to provide for the computation of quotas for producers serving plants which become pool plants after the beginning of the quota forming months.

Two cooperative associations proposed that the quota plan be deleted from the order. They believed that the quota plan has caused producers to increase their production in the quota forming months to the level of their production in the flush months. Handlers proposed that there should be changes made in the quota forming months, quota operating months and in quota rules with respect to quotas to new producers. Two other cooperative associations proposed that no change be made to the quota plan at this time. They stated that the quota plan has not been in operation ample time to analyze its effectiveness and any changes should be considered at a future hearing. Moreover, it appears that the seasonality of production improved after the institution of the plan.

In view of this and the fact that the cooperative associations were not in agreement on the operation of the quota plan there should not be any change in the quota plan on the basis of this record. Further consideration of its continuation or changes in its provisions, may be given when further results of the plan may be observed. However, provision should be made for the computation of quotas for producers supplying distributing plants when such plants first achieve pool plants status after the beginning of the quota forming period. Producers supplying such plants in the preceding quota forming months evidently supplied milk for Class I use both before and after the plant achieved pool plant status. If satisfactory evidence of their deliveries during the preceding quota forming period can be furnished, those producers should have quotas computed as if they had been on the market during the entire preceding quota forming months. The present quota provisions appear appropriate for producers delivering to plants which first qualify as supply plants.

(f) *Producer butterfat differential.* No change should be made in the method used in computing the producer butterfat differential. A cooperative association proposed that the producer butterfat differential should be computed by multiplying the price of 92-score butter at Chicago by 115 percent. The basis of their proposal was that producers should be discouraged from producing fat because of the declining market for butterfat. The present producer butterfat differentials in the Cleveland and Akron-Stark County orders are the weighted average of the uses of butterfat in each class.

No change should be made in the present producer butterfat differential because the producer returns will reflect the actual sale value of their butterfat in each class. Thus, any decline in the Class I butterfat market will be reflected in the producer butterfat differential.

(g) *Administrative provisions.* The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

New or revised language consistent with the order revisions mentioned elsewhere in this decision are provided with respect to a number of definitions.

"Fluid milk product" is defined in the order because frequent references are made to this group of products. The products specified in the fluid milk product definition are for milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk not in hermetically sealed cans, cream, and mixtures of cream and milk or skim milk, including reconstituted milk or skim milk but not including frozen cream, aerated cream products, eggnog or ice cream and frozen dessert mixes.

The dates of the final producer payment should be the 16th to a cooperative association and the 18th to the individual producer. Also, the date at which the market administrator makes payments out of the pool should be advanced from the 18th to the 17th. These changes are required because of the adoption in the combined order of the payment provisions contained in Akron-Stark County order.

The marketing service charge should be five cents per hundredweight. The Akron-Stark County order provides for a five-cent per hundredweight marketing service charge while the Cleveland order provides only four cents. Five cents is a reasonable maximum for the service required to be performed for producers who are not members of a cooperative association. The rate may be reduced by administrative action, but not increased beyond that stated in the order.

An administrative assessment should be made on Class I sales on routes in the marketing area from a nonpool plant from which distribution exceeds the exemption provided. The nonpool handler should pay a share of the cost of administration of the order. Verification of receipts and utilization is required to determine the status of such a nonpool plant.

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 reach such conclusions are denied for the reasons previously stated in this decision.

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

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the 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, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Cleveland, Ohio, and Akron-Stark County, Ohio, marketing areas 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 order, as hereby proposed to be amended:

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DEFINITIONS

§ 975.1 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.).

§ 975.2 Secretary.

"Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 975.3 Department of Agriculture.

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

§ 975.4 Person.

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

§ 975.5 Northeastern Ohio marketing area.

"Northeastern Ohio marketing area", hereinafter referred to as the "marketing area", means all territory within the boundaries of Cuyahoga and Summit Counties; Stark County, except Paris and Sugar Creek Townships; the City of Ashtabula in Ashtabula County; Knox Township in Columbiana County; Willoughby, Mentor and Kirtland Townships and the City of Painesville in Lake County; Black River, Sheffield, Avon Lake, Avon, Amherst, Elyria, Ridgeville, Carlisle, Eaton, Columbia and Grafton Townships in Lorain County; Smith Township in Mahoning County, except Great Lot 35 thereof; Liverpool, Brunswick, Hinckley, York, Granger, Medina, Lafayette, Montville, Sharon and Wadsworth Townships in Medina County; Franklin, Ravenna, Brimfield and Suffield Townships and Lots 5 to 10, 15 to 20, 25 to 30, and 35 to 40, inclusive, of Randolph Township in Portage County; and Sections 1, 2, 3, 10, 11 and 12 of Sugar Creek Township in Wayne County; all in the State of Ohio; together with all piers, docks and wharves connected therewith and including all municipal corporations and all Federal or State installations, institutions or establishments therein.

§ 975.6 Handler.

"Handler" means (a) any person who operates a pool plant, (b) any person who operates a nonpool plant from which a route is operated in the marketing area, and (c) a cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted for the account of such association from a pool plant to a pool plant or nonpool plant.

§ 975.7 Producer.

"Producer" means any person other than a producer-handler with respect to milk produced by him having the approval of the appropriate health authority in the marketing area for consumption as fluid milk which is:

(a) Delivered from the farm to a pool plant;

(b) Diverted from the farm directly to a nonpool plant for the account of a cooperative association or of a handler operating a pool plant. Milk so diverted shall be deemed to have been received at the pool plant from which diverted, if for the account of the operator of such plant, or at an identical location if for the account of a cooperative association through diversion from the pool plant of another handler; and

(c) Diverted from the farm directly to another pool plant for the account of a handler operating a pool plant. Milk so diverted shall have been deemed to have been received for the account of such handler at the pool plant to which it was diverted.

"Producer" shall not include any such person with respect to milk for which such person retains his status as a producer as defined in another order issued pursuant to the Act and which is classified and priced under such other order.

§ 975.8 Pool plant.

"Pool plant" means any milk plant specified in paragraph (a), (b), (c) or (d) of this section approved by the appropriate health authority in the marketing area, other than the plant of a producer-handler or a plant for which the handler is exempt pursuant to §§ 975.90 and 975.91.

(a) A plant at which milk is packaged and from which (1) fluid milk products classified as Class I milk are distributed on a route in the marketing area; and (2) total disposition of such fluid milk products on routes is 50 percent or more of total receipts during the month of milk approved for fluid use by a duly authorized health authority from dairy farmers, through reload points and from other milk plants;

(b) A plant from which there has been delivered to pool plant(s) described in paragraph (a) of this section, either during the current month or during any period of consecutive months ending with the current month, 30 percent or more of its total dairy farm supply of milk;

(c) A plant which was a pool plant during each month of the preceding period of August through January and during that period delivered to pool plant(s) described in paragraph (a) of this section 10 percent or more of its monthly total dairy farm supply of milk during each such month, and 30 percent or more of its total dairy farm supply during the entire August–January period, shall, unless written notice of withdrawal is received by the market admin-

istrator before the first day of the month, be a pool plant as follows:

(1) During the months of February through July regardless of shipments; and

(2) During each successive month of August through January in which it delivers 10 percent or more of its total dairy farm supply to pool plant(s) described in paragraph (a) of this section.

(d) A plant located less than 40 miles from the Public Square in Cleveland, Ohio, or less than 27.5 miles from the nearer of the City Hall in Akron, Ohio, or the City Hall in Canton, Ohio, operated by a cooperative association, or associations, if two-thirds or more of the milk (exclusive of that received at pool plants described in paragraphs (b) and (c) of this section) delivered during the immediately preceding six-month period by producers who are members of such association(s) was received at the pool plants of other handlers;

(e) All pool plants described in paragraph (b) or (c) of this section, respectively, operated by a handler may be considered as one plant for the purpose of meeting the percentage requirement of such paragraphs if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested; and

(f) A plant which replaces a pool plant shall acquire immediately the pool plant status of the replaced plant if the operator thereof shows to the satisfaction of the market administrator that 50 percent or more of the dairy farmers delivering milk to it previously had been producers at the pool plant so replaced.

§ 975.9 Nonpool plant.

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

§ 975.10 Producer milk.

"Producer milk" means all the skim milk and butterfat contained in milk received from producers.

§ 975.11 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) receipts from other pool plants and (2) producer milk; and (b) products, other than fluid milk products, from any source (including those produced at the pool plant) which are reprocessed or converted to another product in the pool plant during the month.

§ 975.12 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk not in hermetically sealed cans, cream, and mixtures of cream and milk or skim milk, including reconstituted milk or skim milk, but not including frozen cream, aerated cream products, eggnog or ice cream and frozen dessert mixes.

§ 975.13 Producer-handler.

"Producer-handler" means a dairy farmer who operates a milk plant from which Class I products are distributed on route(s) in the marketing area and receives no fluid milk products during the month except milk of his own production or by transfer from pool plants.

§ 975.14 Route.

"Route" means a delivery (including a delivery by a vendor or sale from a plant or plant store) of any fluid milk product (except bulk cream) classified as Class I milk to a wholesale or retail outlet other than a delivery to any milk plant.

§ 975.15 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

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

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

(c) To have all of its activities under the control of its members.

§ 975.16 Eligible milk.

"Eligible milk" means the amount of milk received by a handler from a producer during each of the months specified in § 975.73 which is not in excess of such producer's daily average quota multiplied by the number of days in such month on which such producer delivered milk to such handler. With respect to any producer on "every-other-day" delivery to a pool plant, the days of nondelivery shall be considered as days of delivery for the purpose of this section and § 975.60.

§ 975.17 Ineligible milk.

"Ineligible milk" means the amount of milk received by a handler from a producer during each of the months specified in § 975.73 which is in excess of eligible milk received from such producer during such month and shall include all milk received from a producer for whom no daily average quota can be computed.

§ 975.18 Reload point.

"Reload point" means a location, more than 40 miles from the Public Square in Cleveland, Ohio, and more than 27.5 miles from the nearer of the City Hall in Akron or the City Hall in Canton, Ohio, at which facilities approved by the appropriate health authority in the marketing area for transfer of milk from one tank truck to another and for washing of tank trucks are maintained, and at which milk moved from the farm in a tank truck is commingled with other such milk before entering a milk plant. All reloading operations on the premises of a pool plant shall be considered to be a part of such pool plant's operation. Otherwise the operations at a reload point shall be considered to be a part of the operation of the pool plant to which the major portion of the milk moved from farms to the reload point normally moves, except for the application of location adjustments pursuant to §§ 975.55 and 975.81.

MARKET ADMINISTRATOR

§ 975.20 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.

§ 975.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 975.22 Duties.

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

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

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

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

(d) Pay, out of funds provided by § 975.86:

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

(2) His own compensation; and

(3) All other expenses, except those incurred under § 975.87, necessarily incurred by him in the maintenance and functioning of his office 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) Publicly announce, unless otherwise directed by the Secretary by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 975.30, or (2) payments pursuant to §§ 975.80, 975.84, 975.86, 975.87, or § 975.88;

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

(h) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler;

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

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

(1) On or before the 6th day after the end of such month the minimum prices for Class I, Class II, and Class III milk computed pursuant to §§ 975.51, 975.52, and 975.53, respectively, and butterfat differentials computed pursuant to § 975.54;

(2) On or before the 14th day after the end of such month the uniform price computed pursuant to § 975.71, and for April, May and June the price for ineligible milk and the price for eligible milk, computed pursuant to §§ 975.72, and 975.73, respectively, and the butterfat differential computed pursuant to § 975.82;

(k) On or before April 1 of each year provide written notice to: (1) Each producer who made deliveries of milk during the previous October through December as to his daily average quota computed pursuant to § 975.60, (2) each cooperative association as to the daily average quota of each member of such association, and (3) each handler as to the daily average quota of each producer from whom such handler received milk; and

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

REPORTS, RECORDS, AND FACILITIES

§ 975.30 Reports of receipts and utilization.

On or before the 8th day after the end of the month each handler who operates a pool plant, each handler who operates a nonpool plant, except as he is exempt pursuant to §§ 975.90 and 975.91, and any cooperative association with respect to milk for which it is a handler pursuant to § 975.6(c) shall report for the preceding month to the market administrator in detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in or used in the productions of:

(1) Milk received from producers (or qualified dairy farmers, in case of a nonpool plant) and for the months specified in § 975.60 to the aggregate quantities of eligible milk;

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

(3) Other source milk; and

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

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

(1) Disposition of fluid milk products on routes in the marketing area; and

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

(c) Such other information as the market administrator may prescribe.

§ 975.31 Other reports.

Each producer-handler and each handler exempt pursuant to § 975.90 or § 975.91 shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 975.32 Payroll reports.

On or before the 25th day after the end of each month, each handler who received milk from producers shall submit to the market administrator his producer payroll for the month, which shall show:

(a) For the months of July through March, the pounds of milk, and the percentage of butterfat contained therein, received from each producer; and for the months of April through June, the pounds of eligible milk and the pounds of ineligible milk, and the percentage of butterfat contained therein, received from each producer;

(b) The amount and date of payment to each producer or cooperative association pursuant to § 975.80; and

(c) The nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this paragraph.

§ 975.33 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 all of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify reports or to ascertain the correct information with respect to:

(a) The receipts and utilization of all skim milk and butterfat required to be reported pursuant to § 975.30 or § 975.31;

(b) The pounds of skim milk and butterfat contained in or represented by each fluid milk product on hand at the beginning and at the end of each month;

(c) The weights and tests for butterfat and for other contents of all milk and milk products handled; and

(d) Payments to producers and to cooperative associations.

§ 975.34 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

§ 975.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received at a pool plant which is required to be reported pursuant to § 975.30 shall be classified pursuant to §§ 975.41 through 975.48.

§ 975.41 Classes of utilization.

Subject to the conditions set forth in §§ 975.43 and 975.44, the classes of utilization shall be:

(a) Class I utilization shall be all the skim milk (including the skim milk equivalent of concentrated products) (1) disposed of in the form of a fluid milk product, except as provided in subparagraphs (b)(2) and (c) (2) and (3) of this section or (2) not accounted for as Class II or Class III utilization;

(b) Class II utilization shall be all skim milk and butterfat (1) used to produce cottage cheese, and (2) disposed of as sour cream;

(c) Class III utilization shall be all skim milk and butterfat (1) used to produce a product other than a fluid milk product or cottage cheese, (2) disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises, (3) disposed of for livestock feed or skim milk dumped subject to prior notification to and inspection (at his descretion) by the market administrator, (4) in cream frozen, (5) in inventory of fluid milk products on hand at the end of the month, (6) in shrinkage allocated to producer milk that is not in excess of 2 percent of the receipts of skim milk and butterfat respectively, in producer milk, plus 1.5 percent of receipts of skim milk and butterfat, respectively, received in bulk tank lots from pool plants, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to pool plants, and (7) in shrinkage of other source milk.

§ 975.42 Shrinkage.

(a) If a handler has receipts of other source milk, shrinkage shall be prorated between producer milk and other source milk received in the form of fluid milk products in the ratio that 50 times the maximum quantity of skim milk or butterfat, respectively, pursuant to § 975.41(c)(6) bears to that in such other source milk; and

(b) Producer milk diverted by a handler from his pool plant to another plant (pool or nonpool) without first having been received for the purposes of weighing in the diverting handler's pool plant shall be excluded from receipts

at the diverting handler's pool plant and shall be included in the receipts of the plant to which such milk was diverted for the purpose of computing shrinkage.

§ 975.43 Transfers.

Skim milk or butterfat disposed of by a handler from a pool plant, including transfers or diversions made by a cooperative association shall be classified:

(a) As Class I milk if transferred or diverted in the form of fluid milk products to the pool plant of another handler except as:

(1) Utilization in another class is claimed by the operators of both plants in their reports submitted pursuant to § 975.30;

(2) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat, respectively, after assignment of other source milk and beginning inventory of fluid milk products pursuant to §§ 975.46 and 975.47; and

(3) The classification of the skim milk or butterfat so transferred results in the classification at both plants that returns the highest valued class utilization to milk of producers at both plants.

(b) As Class I milk, if transferred 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 or skim milk in bulk to a nonpool plant located more than 265 miles from the Public Square in Cleveland, Ohio, by shortest highway distance as determined by the market administrator;

(d) As Class I milk if transferred or diverted to a nonpool plant located less than 265 miles from the Public Square in Cleveland, Ohio, in the form of milk or skim milk in bulk or to any nonpool plant in the form of cream unless all of the following conditions are met:

(1) The handler claims utilization in another class in his report submitted pursuant to § 975.30;

(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 upon request by the market administrator for audit; and

(3) Such receiving plant had actually used in the classification claimed an amount of skim milk or butterfat, respectively, equivalent to the total claimed in such classification by all handlers transferring or diverting milk from pool plants to such nonpool plant, plus that priced in a comparable class under another order on the basis of utilization in such plant. Should the equivalent utilization in the nonpool plant be less than the required total, a pro rata share of the excess shall be classified in the next higher priced available utilization.

§ 975.44 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 975.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the monthly report of receipts and utilization submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III 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 reasonably associated with such solids in the form of whole milk.

§ 975.46 Allocation of butterfat classified.

The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract from the total pounds of butterfat in Class III utilization, the pounds of butterfat shrinkage allowed pursuant to § 975.41(c)(6);

(b) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat in other source milk other than that to be subtracted pursuant to paragraph (c) of this section;

(c) Subtract from the pounds of butterfat remainnig in each class in series beginning with the lowest priced utilization, the pounds of butterfat contained in other source milk received from a plant at which the handling of milk is fully subject to the classification and pricing provision of another order issued pursuant to the Act;

(d) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat contained in inventory of fluid milk products on hand at the beginning of the month;

(e) Subtract from the butterfat remaining in each class the pounds of butterfat received from other handlers in such classes pursuant to § 975.43(a);

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

(g) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series beginning with the lowest priced utilization. Any amount so subtracted shall be known as "overage".

§ 975.47 Allocation of skim milk.

Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 975.46.

§ 975.48 Computation of total producer milk in each class.

The amounts computed pursuant to §§ 975.46 and 975.47 shall be combined into one total for each class and the weighted average butterfat content of producer milk in each class determined.

MINIMUM PRICES

§ 975.50 Basic formula price.

The basic formula price per hundredweight of milk to be used in determining class prices for each month shall be the higher of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to paragraphs (a) and (b) of this section:

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

COMPANY AND LOCATION

Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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

(1) From the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the month as reported by the Department of Agriculture for the Chicago market, subtract 3 cents, add 20 percent of the resulting amount and then multiply by 3.5; and

(2) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 975.51 Class I milk prices.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant for milk received from producers or from a cooperative association, during the month which is classified as Class I milk, shall be as follows, as computed by the market administrator:

(a) Add to the basic formula price the following amount for the period indicated:

Delivery period:	*Amount*
April through July	$1.35
All others	1.80

and add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total quantity of milk received from producers during the first and second months preceding by the gross quantity of milk utilized as Class I (exclusive of interhandler transfers) at pool plants in the same two months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "deviation percentage" by subtracting from the current utilization percentage as computed in subparagraph (1) of this paragraph, the "standard utilization percentage" shown below:

Month for which the price is being computed:	*Standard utilization percentage*
January	128
February	128
March	128
April	129
May	130
June	140
July	148
August	141
September	127
October	126
November	128
December	130

(3) Determine the amount of the supply-demand adjustment from the following schedule:

Deviation percentage:	*Amount of supply-demand adjustment (cents)*
+13 or over	−25
+10 or +11	−19
+7 or +8	−13
+4 or +5	−7
+2 to −2	0
−4 or −5	+7
−7 or −8	+13
−10 or −11	+19
−13 or below	+25

When the deviation percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

§ 975.52 Class II milk prices.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class II utilization, shall be the basic formula price, as computed pursuant to § 975.50, plus 30 cents.

§ 975.53 Class III milk prices.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class III ultilization, shall be the basic formula price, as computed pursuant to § 975.50.

§ 975.54 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to §§ 975.51, 975.52, and 975.53 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the average daily wholesale price per pound of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month, multiplied by the following factors:

(a) *Class I milk.* Multiply by 1.3 and divide the result by 10;

(b) *Class II milk.* Multiply by 1.15 and divide the result by 10; and

(c) *Class III milk.* Multiply by 1.15 and divide the result by 10.

§ 975.55 Handler location adjustment.

For producer milk received at a pool plant or reload point located 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, Ohio, or the City Hall in Canton, Ohio, the respective class prices for Class I and Class II utilization pursuant to §§ 975.51 and 975.52 shall be reduced at the rate specified below for the location of such plant or reload point:

(a) With respect to milk classified as Class I or Class II utilization without movement as a fluid milk product in bulk form to another pool plant;

(b) With respect to fluid milk products moved in bulk form to a pool plant described in § 975.8(a) in a volume not in excess of that computed in accordance with the following assignment:

(1) The volume by which an amount equal to 108 percent of Class I and Class II utilization at such transferee plant (including the volume assignable under the provisions of this subparagraph with respect to any transfers to a second such plant described in § 975.8(a)), exceeds receipts of producer milk at such plant will be assigned in sequence to (i) receipts in the form of fluid milk from reload points considered to be a part of such plant's operations, and (ii) to other receipts of fluid milk products from pool plants or reload points in the sequence at which the least total adjustment would apply.

(c) With respect to fluid milk products moved in bulk to pool plants described in § 975.8 (b), (c), or (d), in a volume not in excess of that by which (1) 108 percent of the Class I and Class II utilization specified in paragraph (a) of this section, plus (2) that assignable to such plant pursuant to paragraph (b) of this section exceeds receipts of producer milk at such plant, such volume to be assignable to transferor plants in the sequence provided in paragraph (b) of this section; and

(d) The rates of location adjustment credit shall be as follows, based on shortest highway distance from the Public Square in Cleveland, Ohio, as determined by the market administrator:

Distance:	*Cents per hundredweight*
40.1–60 miles	13
60.1–74 miles	20

plus 2 cents per hundredweight for each 14 miles or major fraction thereof in excess of 74 miles.

§ 975.56 Equivalent price provision.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specified price is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

DETERMINATION OF ELIGIBLE MILK QUOTA

§ 975.60 Determination of eligible milk quota for each producer.

Subject to the rules set forth in § 975.61, the market administrator shall determine quotas for producers as follows: During each of the months of April through June, inclusive, the daily quota of each producer whose milk was received by a handler(s) on not less than thirty (30) days during the immediately preceding months of October through December, inclusive, shall be a quantity computed by dividing such producer's total pounds of milk delivered in the 3-month period by the number of days from the date of first delivery to the end of such 3-month period.

§ 975.61 Quota rules.

(a) Except as provided in paragraph (b) of this section, an eligible milk quota shall apply to deliveries of milk by the producer for whose account that milk was delivered to a handler(s) during the quota forming period;

(b) A daily quota may be transferred during the period of April through June by notifying the market administrator in writing before the first day of any month that such quota is to be transferred to the person named in such notice, but under the following conditions only:

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

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

(c) In the case of producers delivering milk to a pool plant described in § 975.8(a) which first qualifies as such during any month from November through June, a daily average quota for

each such producer shall be calculated pursuant to § 975.60 on the basis of his verifiable deliveries of milk to such plant during the period of October through December immediately preceding.

DETERMINATION OF UNIFORM PRICE

§ 975.70 Net obligation of handlers operating pool plants.

The net obligation for milk received by each handler shall be computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 975.48 by the applicable class prices;

(b) Add an amount computed by multiplying the pounds of overage computed pursuant to § 975.46(g) and the corresponding step of § 975.47 by the applicable class prices;

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

(1) The hundredweight of milk subtracted from Class I pursuant to § 975.46(d) and the corresponding step of § 975.47; or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month;

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

(1) The hundredweight of milk subtracted from Class II pursuant to § 975.46(d) and the corresponding step of § 975.47; or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month less that subtracted from Class I pursuant to § 975.46(d) and the corresponding step of § 975.47.

(e) During any month in which the total receipts of producer milk (exclusive of milk diverted from the pool plant of another handler to a nonpool plant for the account of a cooperative association unless written evidence is furnished the market administrator that such milk was offered for delivery to a pool plant at class prices of the order) are more than 110 percent of the total Class I utilization at all pool plants add an amount equal to the difference between the values (subject to butterfat and location differentials) at the Class I price and the Class III price with respect to:

(1) Other source milk subtracted from Class I pursuant to § 975.46(b) and the corresponding step of § 975.47; and

(2) Milk in inventory subtracted from Class I pursuant to § 975.46(d) and the corresponding step of § 975.47 which is in excess of the sum of:

(i) The quantity of milk for which a payment is computed pursuant to paragraph (c) of this section; and

(ii) The quantity of milk subtracted from Class III pursuant to § 975.46(c) and the corresponding step of § 975.47 for the month preceding.

§ 975.71 Computation of uniform price.

For each month, the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content for milk delivered to pool plants at which no location adjustments are applicable as follows:

(a) Combining into one total the values computed under § 975.70 for all handlers who reported pursuant to § 975.30 for such month, except those in default in payments required pursuant to § 975.84 for the preceding month;

(b) Adding the aggregate of the values of all allowable location adjustments computed at the maximum rates for the appropriate zones set forth in § 975.81;

(c) Add any amount paid into the producer-settlement fund and subtract any amount paid out of the producer-settlement fund pursuant to § 975.88(a);

(d) Adding an amount representing not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Subtracting, if the weighted average butterfat test of all milk received from producers represented by the values included in paragraph (a) of this section is greater than 3.5 percent or adding, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the variance of such weighted average butterfat test from 3.5 percent, by the butterfat differential computed pursuant to § 975.82 multiplied by 10;

(f) Dividing by the hundredweight of milk received from producers represented by the values included in paragraph (a) of this section; and

(g) Subtracting not less than 4 cents nor more than 5 cents.

§ 975.72 Computation of ineligible milk price.

For each of the months of April through June the market administrator shall compute the uniform price per hundredweight for ineligible milk of 3.5 percent butterfat content by:

(a) Computing the total value on a 3.5 percent butterfat basis of ineligible milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II and Class III milk included in these computations by the price for Class III milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II and Class III milk by the price for Class I milk of 3.5 percent butterfat content, and adding together the resulting amounts; and

(b) Dividing the total value of ineligible milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjusting to the nearest cent.

§ 975.73 Computation of eligible milk price.

For each of the months of April through June the market administrator shall compute the uniform price per hundredweight for eligible milk of 3.5 percent butterfat content f.o.b. the marketing area, received from producers by:

(a) Subtracting the value of ineligible milk obtained in § 975.72(a) from the aggregate value of milk computed pursuant to § 975.70 (a) through (e) and adjusting by any amount involved in adjusting the uniform price of ineligible milk to the nearest cent;

(b) Dividing the amount obtained in paragraph (a) of this section by the total hundredweight of eligible milk included in these computations; and

(c) Subtracting not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (b) of this section.

§ 975.74 Notification.

On or before the 14th day after each month the market administrator shall notify each handler who submitted a report for the preceding month pursuant to § 975.30 of:

(a) The classification pursuant to §§ 975.46 and 975.47 of skim milk and butterfat contained in producer milk received by such handler during the month and the value of such milk computed pursuant to § 975.70;

(b) The uniform prices for the month computed pursuant to §§ 975.71, 975.72, and 975.73; and

(c) The amount due such handler pursuant to § 975.85 and the amount to be paid by such handler pursuant to §§ 975.84, 975.86, and 975.87.

PAYMENTS

§ 975.80 Time and method of payment.

(a) Except as provided by paragraph (b) of this section, on or before the 18th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform price(s) pursuant to § 975.71 or §§ 975.72 and 975.73 adjusted by the butterfat and location differentials pursuant to §§ 975.81 and 975.82, and less any proper deductions authorized by the producer, including advance payments made pursuant to paragraph (c) of this section: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 975.85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the 16th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due

for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association;

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

(c) Upon written request filed with him on or before the 15th day of the month by a producer, or by a cooperative association which collects payments pursuant to paragraph (b) of this section, each handler shall make advance payment as follows:

(1) On or before the last day of the month, to each such producer who has not discontinued delivery of milk to such handler, an amount not less than the value of milk received from such producer during the first 15 days of such month computed at the Class III price for 3.5 percent milk for the preceding month, without deduction for hauling;

(2) On or before the 27th day of the month, to the cooperative association, with respect to milk received during the first 15 days of the month from certified members specified in the request for advance payment, an amount not less than the aggregate value of such milk at the Class III price for 3.5 percent milk for the preceding month, without deduction for hauling; and

(d) On or before the 15th day after the end of each month, each handler shall pay a cooperative association which is a handler, with respect to milk received by him from a pool plant operated by such cooperative association, not less than an amount computed by multiplying the minimum prices for milk in each class, subject to the applicable location adjustment provided by § 975.55 and the butterfat differential provided by § 975.54, by the hundredweight of milk in each class pursuant to §§ 975.46 and 975.47.

§ 975.81 Location adjustments to producers.

In making payments pursuant to paragraphs (a) and (b) of § 975.80, a handler may deduct with respect to eligible milk received from producers during the months specified in § 975.60 and with respect to all milk received from producers at a pool plant or reload point located 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, Ohio, or the City Hall in Canton, Ohio, by the shortest highway distance as determined by the market administrator, at the rates specified in § 975.55 based on mileage measured from Public Square in Cleveland, Ohio.

§ 975.82 Butterfat differential.

In making payments pursuant to paragraphs (a) and (b) of § 975.80 there shall be added to or subtracted from the uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat content in milk above or below 3.5 percent, as the case may be, a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 975.54 weighted by the pounds of butterfat in producer milk in Classes I, II, and III, respectively, with the result rounded to the nearest tenth of a cent.

§ 975.83 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 pursuant to § 975.84 and out of which he shall make all payments pursuant to § 975.85.

§ 975.84 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall make payments to the market administrator as follows:

(a) If the value of milk received by a handler in the month as computed pursuant to § 975.70 exceeds the amount which such handler is required to pay all producers pursuant to § 975.80 such handler shall pay the difference between the two amounts; and

(b) Except as exempted pursuant to §§ 975.90, 975.91 and 975.92 each handler who operates during the month a nonpool plant out of which a route(s) was operated which extended into the marketing area an amount equal to the total hundredweight of fluid milk products so disposed of multiplied by the difference between the Class I price adjusted for location and the Class III price.

§ 975.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount by which such handler's value pursuant to § 975.70 is less than the total minimum amount required to be paid by him pursuant to paragraphs (a) and (b) of § 975.80 less any unpaid obligations of such handler to the market administrator pursuant to §§ 975.84, 975.86, 975.87, or § 975.88: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 975.86 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of each month three cents per hundredweight, or such amount not exceeding three cents per hundredweight as the Secretary may prescribe with respect to:

(a) All receipts within the month of milk from producers, including milk of such handler's own production;

(b) Any other source milk allocated to Class I pursuant to § 975.46(b) and the corresponding step of § 975.47; and

(c) The amount of milk for which a payment was made pursuant to § 975.84(b).

§ 975.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to paragraphs (a) and (b) of § 975.80, with respect to all milk received from each producer (except milk of such handler's own production) at a plant, not operated by a cooperative association of which such producer is a member, shall deduct five cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of each month; and, on or before the 16th day after the end of such month, shall pay such deductions to the market administrator. Such monies shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information; such services to be performed in whole or in part by the market administrator, or by an agent engaged by and responsible to him;

(b) In the case of producers whose milk is received at a plant, not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions from payments required pursuant to paragraphs (a) and (b) of § 975.80 as may be authorized by such producers, and pay such deductions on or before the 16th day after the end of each month to the cooperative association rendering such services and of which such producers are members.

§ 975.88 Adjustment of accounts.

(a) *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 975.84, 975.85, 975.86, 975.87 or paragraph (a) of this section shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

§ 975.89 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 August 1, 1949, under section 8c(15)(A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this 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 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 months during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the 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

§ 975.90 Milk subject to other Federal orders.

Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the Act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Northeastern Ohio marketing area shall be exempted for such month from all provisions of this part except §§ 975.31, 975.32, 975.33 and 975.34 unless the Secretary determines that the applicable order should more appropriately be determined on some other basis.

§ 975.91 Handler exemption.

A handler who operates a plant located outside the marketing area from which an average of less than 300 points (one point being defined as one-half pint of cream or one quart of any other fluid milk product) of Class I milk per day is disposed of during the month on a route(s) operated wholly or partly within the marketing area shall be exempted for such month from all provisions of this part except §§ 975.31, 975.32, 975.33 and 975.34.

§ 975.92 Producer-handler.

A producer-handler shall be exempt from all provisions of this subpart except §§ 975.31, 975.33 and 975.34.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 975.100 Effective time.

The provisions of this part or of 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.

§ 975.101 Suspension or termination.

The Secretary shall, whenever he finds that this part, or any provisions of this part, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this part or any such provision of this part.

§ 975.102 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.

§ 975.103 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

§ 975.110 Agents.

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

§ 975.111 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 10th day of June 1959.

ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 59-4933; Filed, June 12, 1959; 8:49 a.m.]

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. SA-340]

ACCIDENT OCCURRING AT CHARLESTON, W. VA.

Notice of Hearing

In the matter of investigation of accident involving aircraft of United States registry N 2735A, which occurred at Charleston, West Virginia, May 12, 1959.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, particularly Title VII of said Act, in the above-entitled proceeding that hearing is hereby assigned to be held on Wednesday, June 24, 1959, at 9:30 a.m. (local time) at the Civic Center, Charleston, W. Va.

Dated at Washington, D.C., May 29, 1959.

[SEAL] VAN R. O'BRIEN,
Hearing Officer.

[F.R. Doc. 59-4929; Filed, June 12, 1959; 8:49 a.m.]

[Docket No. 10579]

LEAVENS BROS. LTD.

Notice of Hearing

In the matter of the application of Leavens Bros. Limited for an extension of a foreign air carrier permit to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that a hearing in the above-entitled proceeding is assigned to be held on June 22, 1959, at 10:00 a.m., e.d.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseuh L. Fitzmaurice.

Dated at Washington, D.C., June 10, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-4930; Filed, June 12, 1959; 8:49 a.m.]

[Docket No. 9961 et al.]

TRANS-TEXAS AIRWAYS

Renewal of Temporary Intermediate Points; Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on June 24, 1959, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., June 9, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-4931; Filed, June 12, 1959; 8:49 a.m.]

CIVIL SERVICE COMMISSION

NURSES; SKILLS CRITICAL TO NATIONAL SECURITY EFFORT

Notice of Positions for Which There Is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749, the Civil Service Commission has determined to add the category of professional nurse to the list of positions for which there is a manpower shortage in skills critical to the national security effort.

Under the Classification Act of 1949, as amended, these positions are identified in Nurse Series GS-610-0 and Public Health Nurse Series GS-615-0. In the Department of Medicine and Surgery of the Veterans Administration these are the positions to which appointments are made under Public Law 85-857 in accordance with minimum qualifications requirements of section 4105(4). Comparable positions of professional nurse not subject to the Classification Act of 1949 or the "Veterans Benefits" Act (Public Law 85-857) are also covered.

Geographic coverage is continental United States, excluding Alaska.

Any agency having positions covered by this action may pay travel and transportation costs of new appointees to such positions in accordance with travel regulations issued by the Bureau of the Budget.

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

[F.R. Doc. 59-4922; Filed, June 12, 1959; 8:48 a.m.]

ELECTRONIC TECHNICIANS, REGION IV, FAA; SKILLS CRITICAL TO NATIONAL SECURITY EFFORT

Notice of Positions for Which There Is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749, the Civil Service Commission has determined that there is a manpower shortage in skills critical to the national security effort for Electronic Technicians in Region IV of the Federal Aviation Agency which comprises the States of California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Oregon, Washington, and Wyoming.

For these positions in the area shown, agencies may pay travel and transportation costs of new appointees in accordance with the travel regulations issued by the Bureau of the Budget.

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

[F.R. Doc. 59-4923; Filed, June 12, 1959; 8:48 a.m.]

SCIENTIFIC DIRECTOR, NAVY MEDICAL NEUROPSYCHIATRIC RESEARCH UNIT, SAN DIEGO, CALIF.; SKILLS CRITICAL TO NATIONAL SECURITY EFFORT

Notice of Positions for Which There Is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749 the Civil Service Commission has determined that there is a manpower shortage in skills critical to the national security effort with regard to the position of Scientific Director, U.S. Navy Medical Neuropsychiatric Research Unit, San Diego, California, and the Department of the Navy is authorized to pay travel and transportation costs of a new appointee to this position in accordance with travel regulations issued by the Bureau of the Budget.

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

[F.R. Doc. 59-4924; Filed, June 12, 1959; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-14959 etc.]

MAGNOLIA PETROLEUM CO. ET AL.

Notice of Applications and Date of Hearing

JUNE 8, 1959.

In the Matters of Magnolia Petroleum Company,[1] Docket No. G-14959; Crow Drilling & Producing Company, Docket No. G-14961; Ben F. Brack Oil Company, Inc., Operator,[2] Docket No. G-14962; Vesta Fuel Company, Well No. 6 (Walter C. Crane, Agent),[3] Docket No. G-14963; W. J. Diamondstone et al.,[4] Docket No. G-14964; Washington Natural Gas Company et al.,[5] Docket No. G-14965; Morris Oil and Gas Company, Inc., Docket No. G-14966; Smith and Barker Oil & Gas Company, Inc.,[6] Docket No. G-14991; Freeman Merritt Gas Company, Docket No. G-14992; Graham-Michaelis Drilling Company,[7] Docket No. G-14994; J. I. Roberts, Docket No. G-15026; Victor Hele and Anna Lowe, Docket No. G-15042; Slade Oil and Gas, Inc., Operator,[8] Docket No. G-15043; Harry Wines, Docket No. G-15044; Pan American

See footnotes at end of document.

Petroleum Corporation, Docket No. G–15046.

Each of the above applicants has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing each to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, and any amendments thereto, which are on file with the Commission and open to public inspection.

The respective applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket No., Field and Location, and Purchaser

G–14959; Hugoton Field, Finney County, Kansas; Northern Natural Gas Company.

G–14961; Athens Field, Claiborne Parish, Louisiana; Arkansas Louisiana Gas Company.

G–14962; Medicine Lodge West Field, Barber County, Kansas; Cities Service Gas Company.

G–14963; Union District, Ritchie County, West Virginia; Hope Natural Gas Company.

G–14964; Crown City Triadelphia District, Logan County, West Virginia; Hope Natural Gas Company.

G–14965; Buckhannon Field, Upshur County, West Virginia; Hope Natural Gas Company.

G–14966; Sycamore Creek, Sherman District, Calhoun County, West Virginia; Hope Natural Gas Company.

G–14991; Laurel Creek, Sherman District, Calhoun County, West Virginia; Hope Natural Gas Company.

G–14992; Murphy District, Ritchie County, West Virginia; Hope Natural Gas Company.

G–14994; Hugoton Field, Morton County, Kansas; Cities Service Gas Company.

G–15026; Bethany Field, Panola County, Texas; Arkansas Louisiana Gas Company.

G–15042; Middle Creek Field, Floyd County, Kentucky; Kentucky West Virginia Gas Company.

G–15043; Cabeza Creek Field, Goliad County, Texas; United Gas Pipe Line Company.

G–15044; Skin Creek District, Lewis County, West Virginia; Equitable Gas Company.

G–15046; South Andrews (Devonian) Field, Andrews County, Texas; El Paso Natural Gas Company.

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 July 16, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) 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 July 3, 1959. 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.

JOSEPH H. GUTRIDE,
Secretary.

[1] Application covers a ratification agreement dated February 27, 1958 of a basic gas sales contract dated February 9, 1956, between The Texas Company, seller, and Northern, buyer. Both Magnolia and Northern are signatory parties to the subject ratification agreement.

[2] Ben F. Brack Oil Company, Inc., is filing for itself and, as operator lists as a portion of the related rate schedule filings, together with the percentage of working interest of each, the following nonoperators: Brack Drilling Company, Inc., Ben F. Brack, Drew Pearson, Edward Hart, Eugene F. Hart, Philip Edward Hart, J. W. Field Company, McCore, Inc., and Brolliet & Cie, Ben F. Brack Oil Company, Inc., Brack Drilling Company, Inc., Ben F. Brack, Drew Pearson, Ed Hart and J. W. Field are signatory seller parties to the subject gas sales contract.

[3] Vesta Fuel Company, Well No. 6, Applicant, is a partnership consisting of numerous partners, Walter C. Crane, Carleton G. Lowther and Hayward Summers are signatory seller parties to the subject gas sales contract as are the remaining partners through the signatures of Crane, Lowther and Summers who have signed the contract as Attorneys-in-Fact for said partners.

[4] W. J. Diamondstone, et al., Applicant, is a partnership consisting of W. J. Diamondstone, Smith Management Company, J. Des Freund, Jr., Harold B. Block, Pako Oil & Gas Company, Herbert Frankenstein, Joel S. Kaufmann, David L. Wilkoff Company, B. A. Wilkoff and/or Jean Wilkoff, E. R. Smith and/or Irene B. Smith, Agusta G. Goldman, George P. Goldman, Robert C. Hibbs and/or Ruth M. Hibbs, Russell Perry and A. C. Beane and Diamond Oil & Gas Company. All partners are signatory seller parties to the subject gas sales contract through the signatures of W. J. Diamondstone, who has signed the contract individually and as Attorney-in-Fact for the remaining partners.

[5] Washington Natural Gas Company is filing for itself and as Agent for the following co-owners: 331 Fulton St. Corporation, Roy Paulin, Dr. S. B. Hall, Dr. J. H. Trotter, Dr. Jack Cooke, Robert Currie and Charles Wagner. All above-named co-owners are signatory seller parties to the subject gas sales contract.

[6] Application covers two amendatory agreements dated January 24, 1958 and August 19, 1958, which add additional acreages to a basic gas sales contract dated July 20, 1957, between Smith and Barker Oil and Gas Company (predecessor in interest to Applicant), seller, and Hope, buyer.

[7] Graham-Michaelis Drilling Company, Applicant, is a partnership composed of William L. Graham, Marjorie Lois Graham and W. A. Michaelis, Jr. Applicant acquired its nonoperating interest in the subject unit from Pan American Petroleum Corporation (formerly Stanolind Oil and Gas Company by instrument of assignment dated February 10, 1958, subject to a gas sales contract dated June 23, 1950 between Stanolind (now Pan American), Seller, and Cities Service Gas Company, Buyer.

[8] Slade Oil Company, Inc., Operator, is filing for itself and as operator lists in the application, together with the percentage of working interest of each, the following nonoperators: E. W. Brown, Jr., B. L. Morris, L. Slade Brown, Charles E. Brown, John S. Brown, Thomas S. Hargest, Lavella Howell, C. W. Perkins, Trustee, Jefferson Lake Sulphur Company, and O. G. McClain & Jack H. Scholl. All are signatory seller parties to the subject gas sales contract.

[F.R. Doc. 59–4903; Filed, June 12, 1959; 8:45 a.m.]

[Docket No. G–18305]

CITY OF WAYNESBORO, TENN.

Notice of Application and Date of Hearing

JUNE 9, 1959.

Take notice that on April 14, 1959, the City of Waynesboro, Tenn. (Applicant), filed in Docket No. G–18305 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Tennessee Gas Transmission Company (TGT) to establish physical connection of its transmission system with facilities to be installed by Applicant and to sell natural gas to Applicant on a firm basis for distribution and sale at retail in and near the community of Waynesboro, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant's proposed facilities consist of a distribution system and meter assemblies to serve approximately 348 customers on peak days (estimated number for third year of operation), and approximately 6 miles of 3-inch transmission pipeline from the distribution system to the requested point of connection on TGT's new Delta-Portland transmission line which is to be placed in operation in the fall of 1959. The estimated total cost of Applicant's proposed facilities is $185,000 which is to be financed by a 28-year 5½ percent revenue bond issue.

Applicant's estimated requirements for the project proposed herein are:

Year	Peak day (Mcf)	Annual (Mcf)
1	269	11,455
2	504	36,692
3	595	46,263
4	618	50,704
5	634	52,285

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 July 6, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street N.W., 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 July 1, 1959. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4904; Filed, June 12, 1959; 8:45 a.m.]

[Project No. 2146]

ALABAMA POWER CO.

Notice of Application for Amendment of License

JUNE 9, 1959.

Public notice is hereby given that Alabama Power Company, of Birmingham, Alabama, has filed an application under the Federal Power Act (16 U.S.C. 791a–825r) for amendment of the license for water-power Project No. 2146, to be located on the Coosa River in Cherokee, Etowah, Saint Clair, Calhoun, Talladega, Shelby, Coosa, Chilton, and Elmore Counties, Alabama, and Floyd County, Georgia, for direction pursuant to Article 34 of the license to install the third generating unit at the Weiss Development during initial construction. The third generating unit will be a 39,100-horsepower turbine connected to a 29,250-kilowatt generator with appurtenant facilities.

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 date upon which protests or petitions may be filed is July 13, 1959. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4905; Filed, June 12, 1959; 8:45 a.m.]

[Docket No. G-18220]

INTERSTATE POWER CO.

Notice of Application and Date of Hearing

JUNE 9, 1959.

Take notice that Interstate Power Company (Applicant), a Delaware corporation with its principal place of business in Dubuque, Iowa, filed, on April 2, 1959, an application, pursuant to section 7 of the Natural Gas Act, for:

(1) A certificate of public convenience and necessity authorizing the construction and operation of approximately 5.3 miles of 4½-inch lateral pipeline to extend from a proposed point of connection with its existing 8⅝-inch pipeline northeasterly to the City of Fulton, all in Whiteside County, Illinois.

(2) An order pursuant to section 7(a) of the Act directing Natural Gas Pipeline Company of America (Natural) to deliver and sell natural gas to Applicant at an existing connection for resale and distribution in Fulton.

The foregoing are more fully described in the application on file with the Commission and open to public inspection.

Applicant is presently purchasing gas for resale and distribution in Clinton, Iowa, receiving such gas from Natural at a point of interconnection of Applicant's 8⅝-inch pipeline with Natural's 20-inch transmission pipeline near Hooppole, Illinois. This line extends from Natural's system across the Mississippi River into Clinton, Iowa, and was certificated by Commission order issued April 3, 1951 in Docket No. G–1547. The same order directed Natural under section 7(a) to establish a physical connection of its facilities with those of Interstate and to sell gas to Interstate for resale in Clinton.

Applicant now proposes to tap its own 8⅝-inch gas pipeline at a point on the Illinois side of the Mississippi River and construct approximately 5.3 miles of 4½-inch lateral pipeline to Fulton on the same side of the river and in addition, proposes to construct and operate a distribution system in Fulton and additional peak shaving facilities in Clinton. Applicant, however, is not requesting an increase in Natural's obligation to deliver natural gas to it.

The application recites that the estimated peak day and annual requirements of Fulton for the first four years will be as follows:

Year ended	Volumes in Mcf at 14.73 psia	
	Peak day	Annual
1959	212	9,060
1960	420	40,186
1961	628	70,696
1962	836	101,206

The gas will be consumed by residential, commercial and industrial users.

Applicant states the estimaed cost of the proposed lateral, and Fulton distribution facilities to be $74,000 and $127,550 respectively, the cost of which will be defrayed from current cash funds on hand.

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 July 20, 1959 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 July 10, 1959. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4906; Filed, June 12, 1959; 8:45 a.m.]

[Docket No. G-18253]

IROQUOIS GAS CORP.

Notice of Application and Date of Hearing

JUNE 9, 1959.

Take notice that Iroquois Gas Corporation (Applicant), a New York corporation with a principal office in Buffalo, New York, pursuant to section 7 of the Natural Gas Act, filed an application in Docket No. G–18253 on April 8, 1959, for a certificate of public convenience and necessity authorizing it to construct and operate approximately 9.5 miles of 16-inch transmission pipeline extending from an existing transmission line in the Town of Evans, Erie County, New York, to an existing distribution pipeline in the Town of Hamburg, Erie County, New York, just south of Buffalo, Applicant's principal service area, subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission and open to public inspection.

Applicant states the pipeline proposed herein is an extension of Applicant's pipeline from its Nashville Storage Field to the Town of Evans which was certificated in Docket No. G–9667. The present proposal merely carries to conclusion the initial intent of Docket No. G–9667 a pipeline extending directly from the Nashville Storage Field to Buffalo.

Applicant further states it does not propose any new service or the attachment of any new supply in its application, relying on its prior market and supply estimates presented in Docket No. G–14988.

The estimated cost of the proposed facilities is $475,000 which will be defrayed from its 1959 construction funds.

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 July 20, 1959, 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 July 10, 1959. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4907; Filed, June 12, 1959; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3806]

NEW ENGLAND ELECTRIC SYSTEM AND NARRAGANSETT ELECTRIC CO.

Notice of Proposed Sale of Gas Utility Properties and Contingent Acquisition of Promissory Note in Part Payment Therefor

JUNE 8, 1959.

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and one of its public-utility subsidiaries, The Narragansett Electric Company ("Narragansett"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a)(1), 10 and 12(d) of the Act and Rule 44(a) thereunder as applicable to the proposed transactions, which are summarized as follows:

Narragansett, an electric and gas utility company organized under the laws of Rhode Island, proposes to sell and transfer to Bristol and Warren Gas Company ("Gas Company"), an inactive Rhode Island corporation (all of the capital stock of which at the date of closing will be owned by R. A. Sullivan, a non-affiliate) all of the gas properties, rights, powers, privileges and franchises owned and used by Narragansett in the conduct of its gas business in the Towns of Warren and Bristol, Rhode Island, for a base price of $460,000, such base price to be increased or decreased to reflect net changes in the gas properties subsequent to December 31, 1958.

The consideration to be received by Narragansett is stated to have been determined by competitive bidding and is to be paid in cash except that, at the option of Gas Company, upon proper notice to Narragansett, $115,000 of the consideration may be paid by a promissory note signed by Gas Company and by Sullivan. The note is to mature in thirty months from the date of issue, is to bear interest at the rate of 5 percent per annum, is to be payable in equal semi-annual installments commencing six months from the date of issue and is subject to the terms and conditions of a letter agreement among Gas Company, Sullivan, and Narragansett. The principal of the note may be prepaid in whole or in part at any time without premium.

The expenses and costs to be incurred by Narragansett in connection with the proposed transactions are estimated at $7,150, including $7,000 for services rendered at cost by the system service company. NEES' expenses are estimated at $500, for services at cost by the service company.

Narragansett and Gas Company have applied to the Public Utility Administrator of the Rhode Island Department of Business Regulation for approval of the proposed sale and acquisition of the gas properties. It is represented that no State commission has jurisdiction over the acquisition by Narragansett of the promissory note of Gas Company and no Federal commission, other than this Commission, has jurisdiction over either of the proposed transactions.

Notice is further given that any interested person may, not later than June 22, 1959 at 5:30 p.m., request the Commission in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by the joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the joint application-declaration as filed, or as it may be amended, may be granted and permitted to become effective, as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-4913; Filed, June 12, 1959; 8:47 a.m.]

[File No. 70-3800]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issuance and Sale of Principal Amount of Bonds at Competitive Bidding

JUNE 8, 1959.

Notice is hereby given that Jersey Central Power & Light Company "(Jersey Central"), a public-utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction which is summarized as follows:

Jersey Central proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 promulgated under the Act, $8,000,000 principal amount of First Mortgage Bonds ("New Bonds"), to be dated July 1, 1959 and to mature July 1, 1989. The New Bonds are proposed to be issued under the Indenture dated as of March 1, 1946, between the company and City Bank Farmers Trust Company (name subsequently changed to First National City Trust Company), Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Seventh Supplemental Indenture to be dated as of July 1, 1959. The interest rate on the New Bonds (which will be a multiple of ⅛ of 1 percent and the price, exclusive of accrued interest, to be paid to Jersey Central (which will not be less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding.

The proceeds of the sale of the New Bonds will be used for Jersey Central's 1959 construction program, for the reimbursement of its treasury for expenditures therefrom for that purpose, and for other corporate purposes. Cash expenditures for the 1959 construction program are estimated at $16,158,000.

The fees and expenses to be incurred by Jersey Central in connection with the proposed transaction are estimated at $56,000, including legal fees and expenses of $7,000 and accounting fees and expenses of $3,500. The application states that the Board of Public Utility Commissioners of the State of New Jersey has jurisdiction over the issuance and sale of the New Bonds and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 26, 1959, at 5:30 p.m., request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said filing which he desires to controvert, or he may re-

quest that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application, as filed or as it may be hereafter amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-4914; Filed, June 12, 1959; 8:47 a.m.]

[File No. 24FW-1170]

CONSOLIDATED PETROLEUM INDUSTRIES, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 9, 1959.

I. Consolidated Petroleum Industries, Inc. (issuer), a Texas corporation with its principal offices at 908 Alamo National Bank Building, San Antonio 5, Tex., filed with the Commission on April 30, 1959 a notification on Form 1-A and an offering circular, and filed amendments thereto, relating to an offering of 80,000 shares of its $3.50 par value 6 percent cumulative convertible preferred stock and 80,000 shares of its $.10 par value common stock, to be sold in units of one share of preferred and one share of common at a unit price of $3.75, for an aggregate offering of $300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The offering circular contains untrue statements of material facts, and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

1. The projection of net future income under the caption "Summary of Valuation";

2. The valuations attributed to the Nulty, Villarreal, and Peters leases;

3. The estimates of reserves and of net future income from the Howeth and Mason leases;

4. The statement that there are 343,200 barrels of recoverable oil worth $1,098,240 underlying the Nulty lease;

5. The statement concerning the estimate of recoverable oil in the Owens report;

6. The statements that 225 barrels per acre foot are recoverable from East Wintergarden by present method of operation and that "this ultimate recovery can be increased by almost 400 percent by a complete natural water drive, or at least 200 percent by an artificial water flood project";

7. The table of gross production from the Askew and Clark leases, and the failure to disclose that the leases were being given discovery allowables and were not subject to shutdown days;

8. The inclusion of $261,636.42 in the financial statements representing appraised values of oil reserves and of equipment, such amount being arbitrary and having no relation to the nominal cost actually paid;

9. The failure to disclose in tabular form the net production of oil to the issuer's interests in its producing properties;

10. The statement under the caption "Transactions With Promoters" concerning the percentage of outstanding securities of the issuer which will be held by directors, officers, and promoters, as a group, and the percentage of such securities which will be held by the public, if all the securities to be offered are sold, and the respective amounts of cash paid therefor by such group and by the public.

B. The offering would be made in violation of section 17 of the Securities Act of 1933, as amended.

III. *It is ordered,* Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it is hereby, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-4915; Filed, June 12, 1959; 8:47 a.m.]

[File No. 70-3802]

COLUMBIA GULF TRANSMISSION CO. AND THE COLUMBIA GAS SYSTEM, INC.

Notice of Proposed Issuance and Sale of Debentures By Holding Company In Exchange for Bonds of Subsidiary, and Intrasystem Issuance, Sale and Acquisition of Bonds, Notes and Common Stock

JUNE 8, 1959.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and one of its non-utility subsidiaries Columbia Gulf Transmission Company ("Columbia Gulf"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9, 10, 11(b)(2), 12(c) and Rule 42 promulgated under the Act as applicable to the proposed transactions, which are summarized as follows:

On December 23, 1958, the Commission issued its Findings and Opinion and Order, supplemented by an Order dated December 29, 1958 (Holding Company Act Release Nos. 13893 and 13903, respectively), authorizing, among other things, the acquisition by Columbia Gulf of substantially all of the assets of Gulf Interstate Gas Company ("Gulf Interstate"), and the assumption by Columbia Gulf of the liabilities of Gulf Interstate, including $81,400,000 principal amount of Gulf Interstate's First Mortgage Pipe Line Bonds, 4⅛ percent Series due October 1, 1974 ("4⅛ percent Bonds") and $60,000,000 principal amount of First Mortgage Pipe Line Bonds, 5 percent Series due October 31, 1978 ("5 percent Bonds"). Underlying the Commission's authorization was a commitment by Columbia that it would proceed diligently to eliminate the complication in the system's capital structure resulting from the assumption by Columbia Gulf of the outstanding Bonds of Gulf Interstate.

Upon consummation of the acquisition and assumption of liability, negotiations were initiated with certain of the major holders of the Bonds, all of which are held by 16 insurance companies, a university, and a bank, as agent and trustee. As the result of these negotiations it is expected that agreements will be entered into pursuant to which Columbia will exchange its Debentures for the Bonds assumed by Columbia Gulf.

The Debentures will be issuable in two series under an Indenture dated June 1, 1950, between Columbia and Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), as Trustee, as heretofore supplemented and as to be further supplemented by an eleventh supplemental indenture to be dated as of April 1, 1959, such Debentures being designated 4⅛ percent Debentures, Series L, due 1974 and 5 percent Debentures, Series M, due

1978. The 4⅛ percent Debentures and the 5 percent Debentures are to be dated April 1, 1959, and will be issued in exchange for a like aggregate principal amount of the Columbia Gulf 4⅛ percent and 5 percent Bonds, respectively. Each series of Debentures will have the same terms and provisions as to sinking fund payments, redemption prices, interest payment dates and maturity dates as those applicable to the Bonds for which they are to be exchanged, except that Columbia may not call for redemption (other than for sinking fund purposes) any of the 5 percent Series M Debentures unless it simultaneously calls for redemption a pro rata principal amount of the 4⅛ percent Series L Debentures.

The proposed exchange of Debentures for Bonds is predicated upon the execution of an Exchange Agreement by Columbia and each Bondholder and will be of no force and effect until all the Bondholders shall have entered into such an agreement. A copy of the executed agreements is to be supplied by amendment to the present filing.

Columbia further proposes to sell to Columbia Gulf, for cash, at the principal amount thereof, $10,000,000 principal amount of the 5 percent Bonds received pursuant to the proposed exchange. Such bonds will thereupon be cancelled by Columbia Gulf. The asserted purpose of this sale is to make available to other subsidiaries in the Columbia system excess funds now held by Columbia Gulf.

Columbia also proposes to deliver the balance of the principal amount of the Bonds acquired by it to Columbia Gulf for cancellation and to acquire in exchange therefor approximately $93,720,000 of Installment Notes and 1,383,000 shares of common stock, $25 par value, to be issued by Columbia Gulf. The Installment Notes are to be dated June 15, 1959, are to be repayable in 25 equal annual installments and are to bear interest at the rate of 4½ percent per annum which is approximately the present average interest cost on the Bonds of Columbia Gulf that are being cancelled.

The fees and expenses incurred and to be incurred in connection with the proposed transactions are to be supplied by amendment.

It is represented that no State commission or Federal commission other than this Commission has jurisdiction over the proposed transactions.

The filing requests that the order to be entered herein conform with the provisions of sections 4382(b)(2) and 1081 of the Internal Revenue Code of 1954 so that (a) Columbia may eliminate the payment of Federal stamp taxes on the issuance of its Debentures and on the transfer to it of the Bonds received in exchange therefor (b) Columbia Gulf may eliminate such tax on the issuance of its common stock and (c) Columbia and the holders of the bonds to be exchanged will not be required to recognize any taxable gain in connection therewith.

Notice is further given that any interested person may, not later than June 22, 1959, at 5:30 p.m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the joint application-declaration, as filed or as amended, may be granted and permitted to become effective, in whole or in part, as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-4916; Filed, June 12, 1959; 8:47 a.m.]

[File No. 2-4308]

MID-STATES SHOE CO.

Notice of Application for Exemption

JUNE 8, 1959.

Notice is hereby given that Mid-States Shoe Company, a Wisconsin corporation ("applicant") has filed an application pursuant to Rule 15d-20 of the general rules and regulations under the Securities Exchange Act of 1934 (17 CFR 240.15d-20) for an order exempting applicant from the operation of section 15(d) of the Act with respect to the duty to file any reports required by that section and the rules and regulations thereunder.

Rule 15d-20 permits the Commission, upon application and subject to appropriate terms and conditions, to exempt an issuer from the duty to file annual and other reports if the Commission finds that all of the outstanding securities of the issuer are held of record, as therein defined, that the number of such record holders does not exceed 50 persons and that the filing of such reports is not necessary in the public interest or for the protection of investors.

The application states with respect to the request for exemption from the reporting requirements of section 15(d) of the Act as follows:

(1) All of the outstanding securities of the applicant consist of 80,000 shares of common stock and 17,013 shares of 6 percent preferred stock, all of both classes of which are held of record, none of either class of which is registered on any national securities exchange and in neither class of which is there any activity in their sale and transfer.

(2) Of the 80,000 outstanding shares of applicant's common stock, 79,879 are owned by applicant's parent, Shoe Corporation of America, an Ohio corporation. The remaining 121 shares are owned by 2 individuals.

(3) Of applicant's 17,013 outstanding shares of 6 percent preferred stock, 15,499 shares are owned by Shoe Corporation of America, 946 are owned by Kane & Company as nominees of Chase Manhattan Bank as Trustee under Shoe Corporation of America's Retirement Plan, and the remaining 568 are owned by 21 individuals, who own from 2 to 151 such shares.

(4) Pursuant to requirements of the law of its domicile, information comparable to that made available in reports required to be filed with the Securities and Exchange Commission, will be available at the office of the applicant in Milwaukee, Wisconsin, to the holders of the shares, preferred and common, upon their request for such information, and written copies thereof may be obtained by them upon request.

(5) The filing of such reports by applicant is not necessary in the public interest or for the protection of investors.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application, which is now on file in the office of the Commission in Washington, D.C.

Notice is further given that an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate may be issued by the Commission at any time on or after June 25, 1959, unless prior thereto a hearing is ordered by the Commission. Any interested persons may, not later than June 22, 1959, at 5:30 p.m., e.d.s.t., submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-4917; Filed, June 12, 1959; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 5, 1959.

The Federal Aviation Agency has filed an application Serial Number A.046732 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

Precedence will be taken over the request for withdrawal by the Fish and

Wildlife Service (A.023347) however the access to the common area will be permitted the Fish and Wildlife Service for official business consistent with Federal Aviation Agency Security measures; and adoption will be made of such wildlife conservation measures as are consistent with the purposes of the proposed Izembek Wildlife Management area and the purposes of the Federal Aviation Agency.

The applicant desires the land for a combination very high frequency radio range and tactical Air Navigation System.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 East 5th Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

COLD BAY AREA

From the point of beginning of Air Navigation Site Withdrawal Number 176, go N. 24°57'30" W. 22,530.0 feet to the Northwest corner thereof, at local co-ordinates N. 441,512.23 E. 461,615.24, which is the true point of beginning; thence N. 24°57'30" W. 3827.95 feet; thence north 3517.29 feet; thence east 5000.0 feet; thence south 6987.77 feet to the north boundary of A.N.S.W. 176; thence west along said boundary 3384.76 feet to the point of beginning; containing 800 acres, more or less. Excepting that portion of a previous withdrawal for the right-of-way for an access road to the ILS Outer Marker, said portion containing 70 acres, more or less.

Containing 730 acres more or less.

GEORGE E. M. GUSTAFSON,
Acting Operations Supervisor, Anchorage.

[F.R. Doc. 59-4909; Filed, June 12, 1959; 8:46 a.m.]

COLORADO

Amendment of Notice of Proposed Withdrawal and Reservation of Lands

JUNE 5, 1959.

Effective immediately, Notice of Proposed Withdrawal and Reservation of Lands pertaining to application for withdrawal, Colorado 026637 of the U.S. Forest Service, Federal Register Document 59-3644 appearing in the issue of April 30, 1959 at page 3385, is corrected as follows:

Under Colorado State Highway No. 274, Roadside Zone, T. 22 S., R. 69 W., Section 19, "SW¼SW¼" is corrected to read "SW¼SE¼".

J. ELLIOTT HALL,
Lands and Minerals Officer.

[F.R. Doc. 59-4910; Filed, June 12, 1959; 8:46 a.m.]

COLORADO

Amendment of Notice of Proposed Withdrawal and Reservation of Lands

JUNE 5, 1959.

Effective immediately, Notice of Proposed Withdrawal and Reservation of Lands pertaining to application for withdrawal, Colorado 027960 of the U.S. Forest Service, Federal Register Document 59-4051, appearing in the issue of May 14, 1959, at page 3890, is corrected as follows:

Under West Muddy Administrative Site the metes and bounds description "S. 54°99' E." is corrected to read "S. 54°00' E."

J. ELLIOTT HALL,
Lands and Minerals Officer.

[F.R. Doc. 59-4911; Filed, June 12, 1959; 8:46 a.m.]

ALASKA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

JUNE 1, 1959.

1. Plats of survey of the lands described below will be officially filed in the Fairbanks Land Office, Fairbanks, Alaska, effective at 10:00 a.m. on July 5, 1959:

Township 10 South, Range 11 East,
Sections 1, 2, 11 and 12.
Township 10 South, Range 11 East,
Sections 3, 4, 9 and 10.
Township 10 South, Range 11 East,
Sections 5, 6, 7 and 8;
Sections 13, 14, 15, 16, 17 and 18;
Sections 20, 21, 22, 23, 24, 25, 26 and 27;
Sections 35 and 36.

2. These lands lie Southeast of Delta Junction and are approximately 3 miles East of the Richardson Highway. The terrain is flat to slightly sloping with silt soil. Its major cover is black spruce and birch reproduction. A part of this area is suitable for agriculture uses.

3. Subject to any existing valid rights and the requirements of applicable law, the lands described in Paragraph 1 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following:

Applications and selections under the nonmineral public land laws and applications 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, Alaska Homesite 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 July 5, 1959, 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 August 28, 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 August 28, 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.

(4) Persons claiming veteran's preference right under Paragraph (2) above must submit with their applications proper evidence of military or naval service preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference right based upon valid settlement, statutory preference or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to 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.

5. Applications for these lands, which shall be filed in the Land Office at Fairbanks, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the Homestead and Homesite Laws shall be governed by the regulations contained in Parts 64, 65 and 166 of Title 43 of the Code of Federal Regulations and applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that Title.

6. Inquiries concerning these lands shall be addressed to the Manager, Fairbanks Land Office, P.O. Box 1050, Fairbanks, Alaska.

ROBERT L. JENKS,
Manager.

[F.R. Doc. 59-4912; Filed, June 12, 1959; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-47]

ORDNANCE MATERIALS RESEARCH OFFICE

Notice of Amendment to Construction Permit

Please take notice that the Atomic Energy Commission has issued Amendment No. 4 to Construction Permit No. CPRR-16, set forth below, which extends the earliest completion date of the pool-type 100 kilowatt Ordnance Materials Research Office Reactor to be located at the Watertown Arsenal, Watertown, New York to November 15, 1959, and the latest completion date to May 15, 1960.

Dated at Germantown, Md., this 8th day of June 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[Construction Permit CPRR-16; Amdt. 4]

Condition A of Construction Permit No. CPRR-16 is hereby amended by changing the first two sentences thereof to read as follows:

The earliest completion date of the reactor is November 15, 1959, and the latest completion date of the reactor is May 15, 1960.

This amendment is effective as of the date of issuance.

Date of issuance: June 8, 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 59-4901; Filed, June 12, 1959; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF AGRICULTURE ET AL.

Revocation of Delegations of Authority

The authorities set forth in the attachment to this document, which previously had been delegated by the Administrator of General Services to heads of executive agencies pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, are hereby revoked. Revocation of these authorities shall not impair the validity of any actions heretofore taken by the heads of executive agencies under the provisions of their respective delegations.

Dated: June 5, 1959.

EDWARD K. MILLS, Jr.,
Acting Administrator.

Authority	Date of delegation	To whom delegated	Deleg. No.	F.R. citation
To negotiate certain contracts without advertising.	Sept 25, 1952	Secretary of Agriculture.	141	17 F.R. 8671.
To perform certain building operation, maintenance and protection functions.	Oct. 9, 1952	do	142	None.
To negotiate certain contracts relating to the control of foot and mouth disease.	June 18, 1954	do	204	19 F.R. 3816.
Lease of space at Stillwater, Oklahoma.	Dec. 29, 1954	do	221	20 F.R. 141.
Contracts for procurement of management consulting services, Forest Service.	Jan. 27, 1956	do	254	21 F.R. 757.
Contracts for procurement of management consulting services, Forest Service.	Oct. 11, 1956	do	275	21 F.R. 8035.
Negotiation of contracts for the handling of radio-active materials in connection with the screwworm eradication program.	Nov. 15, 1957	do	312	22 F.R. 9301.
Negotiation of contracts for the procurement of services in connection with spraying operations under the gypsy moth program.	Apr. 3, 1958	do	332	23 F.R. 2304.
To enter into contracts for procurement of engineering services.	May 2, 1958	do	339	23 F.R. 3844.
Negotiation of contracts for the design, construction and operation of a trade fair exhibit.	Oct. 7, 1958	do	355	23 F.R. 7935.
To make purchases and contracts for supplies and services required by the National Bureau of Standards.	Letter dated Oct. 20, 1950.	Secretary of Commerce.	None	None.
To negotiate contracts for certain surveys and maps.	Aug. 4, 1954	do	210	19 F.R. 5009.
To negotiate a contract for the purchase of certain equipment.	Apr. 15, 1955	do	None	None.
Lease of space at Honolulu, Territory of Hawaii.	Aug. 21, 1956	do	269	21 F.R. 6425.
To negotiate contracts with firms, institutions and associations for professional engineering and accounting services and research services.	Sept. 17, 1956	do	272	21 F.R. 7259.
Negotiation of certain contracts for supplies and services in connection with Bureau of the Census programs.	June 18, 1957	do	294	22 F.R. 4460.
Do	July 9, 1958	do	294, Suppl. 1	23 F.R. 5363.
Negotiation of contracts for appraisal services in connection with the accelerated highway program.	Aug. 23, 1957	do	301	22 F.R. 7003.
Do	Aug. 7, 1958	do	301, Suppl. 1	23 F.R. 6272.
Execution of real estate leases in Anchorage, Alaska, not in excess of three years.	Sept. 18, 1957	do	304	22 F.R. 7569.
Negotiation of contracts for supplies and services in connection with National Bureau of Standards programs.	Dec. 20, 1957	do	316	22 F.R. 10979.
Negotiation of certain contracts for supplies and services in connection with Weather Bureau programs.	Feb. 20, 1958	do	329	23 F.R. 1257.
Negotiation of contracts for procurement of supplies and services for programs of the Coast and Geodetic Survey.	Nov. 3, 1958	do	358	23 F.R. 8737.
Conveyance of old Forts Barrancas, San Carlos and Redoubt to the State of Florida.	Dec. 26, 1950	Secretary of Defense.	63	None.
Disposal of Government-owned war plant known as Plancor 27.	Aug. 17, 1951	do	98	None.
Disposal of certain airport and other properties located in the Territory of Hawaii.	Nov. 30, 1951	do	113	16 F.R. 12528.
To negotiate the sale of surplus gamma globulin to the American National Red Cross and the National Foundation for Infantile Paralysis, Inc.	Letter dated Oct. 30, 1953.	Secretary of the Navy.	None	None.
Disposal of real property at the Detroit Dam and Reservoir, Oregon.	Apr. 20, 1955	Secretary of Defense.	231	20 F.R. 2745.
Disposal of 0.947 acre of excess land formerly a part of Plancor 763, Lone Star Steel Company, Daingerfield, Texas.	Aug. 18, 1955	do	249	20 F.R. 6198.
Southern California Edison Company, Application No. 37417, California Public Utilities Commission.	Jan. 30, 1956	do	255	21 F.R. 778.
Disposal of 8.23 acres of surplus land at Naval Air Station, St. Louis, Missouri.	Apr. 25, 1956	do	258	21 F.R. 2900.
Disposal of certain additions and improvements to the plant of the Westinghouse Electric Corporation, Sunnyvale, California, N-CAL-561.	June 29, 1956	do	264	21 F.R. 5073.
To negotiate the sale of one PBM-5A aircraft for pilot training purposes.	Letter dated Dec. 27, 1956.	do	None	None.

Authority	Date of delegation	To whom delegated	Deleg. No.	F.R. citation
Disposal of certain additions and alterations to the facilities of the Bethlehem Steel Company yard, San Pedro, California.	Mar. 5, 1957	Secretary of Defense.	282	22 F.R. 1594.
To negotiate the sale of one JB-17G aircraft, Air Force Serial Number 44-84813.	Letter dated Mar. 11, 1957.	do	None	None.
To negotiate the sale of two lots of used electrical equipment.	Letter dated Apr. 2, 1957.	do	None	None.
Disposal of electrical facilities and easements serving the Naval Ordnance Plant, Louisville, Ky., and the Naval Ordnance Proving Ground, Knob Creek, Ky.	Apr. 4, 1957	do	288	22 F.R. 2441.
Disposel of the Government-owned one-half divided interest in 202.54 acres of Tract 18, Hitchcock NAF, Hitchcock, Texas.	Apr. 26, 1957	do	290	22 F.R. 3166.
To negotiate the sale of two JRF-5 type (Grumman Goose) aircraft.	Letter dated Jan. 7, 1958.	do	None	None.
To negotiate certain contracts relating to the conduct of physical examinations under the Refugee Relief Act of 1953.	Mar. 19, 1954	Secretary of Health, Education, and Welfare.	197	19 F.R. 1591.
To administer contract for processing and distribution of motion pictures and film strips.	Dec. 23, 1955	do	252	21 F.R. 43.
To negotiate certain contracts for health, medical research and scientific research programs.	Nov. 19, 1956	do	279	21 F.R. 9335.
Do	June 7, 1957	do	279, Amend	22 F.R. 4265.
Administering of contract for processing and distribution of motion pictures and film strips.	Jan. 31, 1958	do	318	None.
Negotiation of contracts for professional services.	Aug. 6, 1958	do	351	23 F.R. 6217.
Purchases and contracts for supplies and services in connection with Synthetic Liquid Fuels Program.	July 27, 1950	Secretary of the Interior.	40	15 F.R. 4961.
Purchases and contracts for supplies and services in connection with construction and maintenance of roads and trails of National Park Service.	Aug. 15, 1950	do	41	15 F.R. 5538.
Disposal of electric distribution line	Jan. 3, 1951	do	65	None.
Procurement in connection with Fish and Wildlife Service.	Jan. 15, 1951	do	68	16 F.R. 515.
Contract authority in expenditure of funds allotted by other agencies.	Mar. 17, 1951	do	78	16 F.R. 2643.
Procurement of supplies and services for the production of helium gas.	Mar. 27, 1951	do	79	16 F.R. 2816.
Procurement of services from colleges, universities or other educational institutions in connection with scientific, research and investigatory programs of the National Park Service.	Dec. 10, 1951	do	114	16 F.R. 12624.
To negotiate contracts for geological surveys and studies by colleges, universities and other educational institutions.	May 27, 1952	do	129	17 F.R. 4993.
To negotiate certain contracts with educational institutions.	Sept. 5, 1952	do	140	17 F.R. 8199.
To negotiate certain contracts for social and welfare services relating to Bureau of Indian Affairs responsibilities.	Dec. 18, 1953	do	188	18 F.R. 8738.
Contracts for personal or professional services by Bureau of Indian Affairs.	Jan. 11, 1954	do	190	19 F.R. 275.
Lease of space and facilities by the Bureau of Indian Affairs.	June 3, 1954	do	202	19 F.R. 3361.
Contracts for procurement of engineering and architectural services—Bonneville Power Administration.	Nov. 12, 1954	do	216	19 F.R. 7422.
To negotiate contracts for the services of engineering and architectural firms.	Dec. 28, 1954	do	220	20 F.R. 12.
Disposal of Part "C" of Parcel C-17, Independence National Historical Park Project, Philadelphia, Pennsylvania.	Jan. 3, 1955	Secretary of the Interior.	222	20 F.R. 171.
To negotiate a contract for the codification of the laws of the Virgin Islands.	Jan. 20, 1955	do	223	20 F.R. 569.
Disposal of real property in Crook County, Wyoming.	Mar. 11, 1955	do	227	20 F.R. 1615.
To negotiate contracts for the purchase of certain equipment.	Apr. 21, 1955	do	233.1	20 F.R. 2837.
To negotiate contracts for architect-engineer services.	May 10, 1955	do	238	20 F.R. 3345.
Contract for procurement of electrical facilities from Pacific Gas and Electric Company.	May 11, 1955	do	239	None.
To negotiate contracts in connection with activities of the Fish and Wildlife Service.	May 17, 1955	do	241	20 F.R. 3574.
To negotiate for the services of architectural firms.	Aug. 16, 1955	do	248	20 F.R. 6111.
To negotiate contract for the construction of a fort replica.	Jan. 24, 1956	do	253	21 F.R. 657.
To negotiate a professional engineering service contract.	Nov. 23, 1956	do	280	21 F.R. 9335.
To negotiatec contracts for the services of architectural and engineering firms.	Nov. 30, 1956	do	281	21 F.R. 9690.
To negotiate contract for the measurement of stream velocities by ultrasonic techniques.	May 2, 1957	do	291	22 F.R. 3236.
Negotiation of a contract for the obtaining of component parts for the assembly and construction of mass spectrometers.	Aug. 13, 1957	do	298	22 F.R. 6636.
Negotiation of contracts for professional services.	Aug. 30, 1957	do	303	22 F.R. 7167.
Execution of real estate leases in Anchorage, Alaska, not in excess of three years.	Sept. 18, 1957	do	306	22 F.R. 7620.
Disposal of the Spirit and Chewelah Power Substations in Stevens County, Wash.	Sept. 20, 1957	do	307	22 F.R. 7724.
Negotiation of contracts for professional services.	Oct. 18, 1957	do	308	22 F.R. 8427.
Negotiation of a contract for the obtaining of an Eickhoff mining machine for research concerning the longwall mining method.	Oct. 29, 1957	do	310	22 F.R. 8862.
Negotiation of contracts for professional services.	Dec. 11, 1957	do	315	22 F.R. 10115.
Negotiation of a contract for the redesigning and rebuilding of a Herold Pneumatic Planer.	Apr. 3, 1958	do	331	23 F.R. 2304.
Negotiation of a contract for an engineering model of an ultrasonic velocity meter.	Apr. 9, 1958	do	333	23 F.R. 2464.
Negotiation of contracts with firms for professional engineering, architectural, and landscape architectural services.	June 30, 1958	do	347	23 F.R. 5139.
Negotiation of contracts for professional services.	Aug. 5, 1958	do	350	23 F.R. 6164.
Negotiation of contracts with private industry for on-the-job training of adult Indians.	Aug. 8, 1958	do	352	23 F.R. 6312.
Negotiation of contracts for professional services.	Sept. 10, 1958	do	354	23 F.R. 7161.
To negotiate certain contracts for technical equipment.	Mar. 29, 1954	Attorney General	198	19 F.R. 1800.
To negotiate contracts for certain technical equipment.	June 8, 1954	do	None	None.
Lease of real property in Fauquier County, Virginia.	Apr. 15, 1955	do	None	None.
To negotiate certain contracts for the purchase of animals required by the Bureau of Prisons for breeding purposes.	May 9, 1955	do	237	20 F.R. 3240.

Authority	Date of delegation	To whom delegated	Deleg. No.	F.R. citation
To negotiate a contract for procurement of architectural and engineering services.	June 6, 1956	Attorney General	261	21 F.R. 3945.
Leases of real property in San Diego County, California.	Sept. 11, 1956	do	271	21 F.R. 6980.
Contracts for instructional and research programs with colleges, universities and educational institutions.	June 28, 1951	Secretary of Labor	91	16 F.R. 6546.
To negotiate contracts for services relating to authorized advertising campaigns.	Oct. 15, 1956	do	276	21 F.R. 7964.
To negotiate contracts for architectural and engineering services, etc.	May 27, 1955	Postmaster General.	242	20 F.R. 3920.
Procurement of supplies and services for improvement of postal operations and other activities.	do	do	243	Do.
To enter into contracts for rehabilitation of Chicago, Illinois, Main Post Office.	June 6, 1958	do	341	23 F.R. 4321.
Negotiation of contracts for professional services.	Mar. 5, 1959	do	362	24 F.R. 1816.
Purchases and contracts for supplies and services.	Sept. 6, 1950	Secretary of State	42	15 F.R. 6130.
Disposal of realty in Philippine Islands.	Dec. 21, 1953	do	189	18 F.R. 8738.
Negotiation of contracts for services in connection with development and preparation of grading of examinations for candidates for the Foreign Service of the United States.	May 9, 1958	do	337	23 F.R. 3311.
To negotiate a certain service contract.	Letter dated Nov. 19, 1954.	Secretary of the Treasury.	None	None.
To negotiate a contract for the purchase and installation of a mechanical conveyor system.	June 15, 1956	do	262	21 F.R. 4416.
To negotiate contracts for the procurement of audio and visual services.	July 3, 1956	do	265	21 F.R. 5147.
Negotiation of contracts for professional services in connection with the selection of a site for an additional Washington airport.	Sept. 18, 1957	Chairman, Airways Modernization Board.	305	22 F.R. 7569.
Negotiation of contracts for supplies and services.	Nov. 15, 1957	do	311	22 F.R. 9301.
Negotiation of contracts for the services of engineering and economic research firms.	Feb. 6, 1958	Chairman, Alaska International Rail and Highway Commission.	319	22 F.R. 914.
To make certain determinations in connection with the return of lands to the public domain.	June 4, 1954	Chairman, Atomic Energy Commission.	203	19 F.R. 3408.
Negotiation of certain contracts for supplies and services.	Jan. 27, 1959	Administrator, Federal Aviation Agency.	361	24 F.R. 716.
Procurement of supplies and services.	Apr. 21, 1951	Administrator, Federal Civil Defense.	84	16 F.R. 3676.
To contract for remodeling buildings, necessary work and services.	May 19, 1952	do	126	17 F.R. 4664.
Procurement in connection with school facilities to be provided under section 204 of Public Law 815, 81st Congress.	Feb. 17, 1951	Administrator, Housing and Home Finance Agency.	74	16 F.R. 1802.
To negotiate contracts for the services of engineering and architectural firms.	July 7, 1953	do	172	18 F.R. 4051.
Lease of storage space	Nov. 3, 1955	Chairman, National Advisory Committee for Aeronautics.	None	None.
Procurement of appraisal services and reports.	Nov. 17, 1950	National Capital Park and Planning Commission.	51	15 F.R. 8057.
Negotiation of certain contracts for services and supplies.	July 30, 1958	Director, Office of Civil and Defense Mobilization.	349	23 F.R. 5965.
Procurement of services	May 26, 1954	Director, Office of Defense Mobilization.	None	None.
To make purchases and contracts	Feb. 15, 1952	President, Panama Canal Company.	120	17 F.R. 1672.
Negotiation of contracts for supplies and services.	Jan. 26, 1959	Administrator, Small Business Administration.	360	24 F.R. 693.
To negotiate contracts for restoring and repairing valuable museum objects.	Nov. 19, 1954	Secretary, Smithsonian Institution.	217	19 F.R. 7629.
To negotiate contracts for certain restoration and renovation work.	Apr. 13, 1955	do	230	20 F.R. 2540.
To negotiate contracts for revision of a certain art collection catalog.	May 27, 1955	do	244	20 F.R. 3920.
To negotiate certain contracts and purchases.	July 31, 1953	Director, United States Information Agency.	176	18 F.R. 4634.
To negotiate for the services of architectural and engineering firms—expansion of overseas radio facilities.	Oct. 26, 1956	do	277	21 F.R. 8416.
Disposal of real property located in St. Croix, Virgin Islands.	Sept. 25, 1953	President, Virgin Islands Corporation.	181	18 F.R. 6277.
Disposal of distillery property located in St. Croix, Virgin Islands.	Dec. 11, 1953	do	187	18 F.R. 8522.
Disposal of real property located in St. Croix, Virgin Islands.	June 27, 1957	do	295	22 F.R. 4693.
Negotiation of a contract for professional services.	Oct. 31, 1958	do	356	23 F.R. 8713.

[F.R. Doc. 59-4919; Filed, June 12, 1959; 8:48 a.m.]

[Delegation of Authority 273, Supp. 1]

SECRETARY OF AGRICULTURE ET AL.

Authority To Make Certain Advance Payments

The Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Interior, the Postmaster General, the Chairman of the Atomic Energy Commission, the Director of Civil and Defense Mobilization, the Administrator of the Federal Aviation Agency and the Administrator of Veterans Affairs.

Delegation of Authority No. 273, published in the FEDERAL REGISTER of September 27, 1956, 21 F.R. 7420, is hereby amended to extend the authority delegated therein to the Director of Civil and Defense Mobilization and the Administrator of the Federal Aviation Agency.

Dated: June 5, 1959.

EDWARD K. MILLS, Jr.,
Acting Administrator.

[F.R. Doc. 59-4920; Filed, June 12, 1959; 8:48 a.m.]

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