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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3371

NATIONAL FOREST PRODUCTS WEEK, 1960

By the President of the United States of America

A Proclamation

WHEREAS the bounty of our forest and timber lands provides our people with a source of strength and pride; and

WHEREAS as a major renewable resource, supported by the science of modern forestry, wood offers the availability and abundance to satisfy the Nation's ever growing needs for many products—lumber, paper, building materials, chemicals, furniture, and cloth—all dedicated to improving the lives of our people; and

WHEREAS the Congress, in order to reemphasize the importance of our forest resources, has by a joint resolution approved September 13, 1960, designated the seven-day period beginning on the third Sunday of October in each year as National Forest Products Week, and has requested the President to issue annually a proclamation calling for the observance of that week:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 16, 1960, as National Forest Products Week, with activities and ceremonies designed to focus attention on the importance of our forests and forest products to the Nation's economy and welfare.

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

DONE at the City of Washington, this fifteenth day of September in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fifth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 60-8794; Filed, Sept. 19, 1960; 10:05 a.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of the Army

Effective upon publication in the FEDERAL REGISTER, subparagraph (7) is added to paragraph (a) of § 6.105 as set out below.

§ 6.105 Department of the Army.

(a) *General.* * * *

(7) Trainee student medical technologist (intern) positions at the Rodriquez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed one year in any individual case; provided, that such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 330, Eightieth Congress.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 60-8709; Filed, Sept. 19, 1960; 8:46 a.m.]

PART 29—RETIREMENT

Miscellaneous Amendments

1. As a result of the enactment of Public Law 86-713, approved September 6, 1960, § 29.6 (c) and (f), the heading and paragraphs (a), (b) and (c) of § 29.7, and § 29.18 (c) and (d) are amended, and a new paragraph (a) is added to § 29.17, the heading is amended, and present paragraphs (a) through (d) are redesignated paragraphs (b) through (e). As revised, these sections will read in part as follows:

§ 29.6 Disability retirement.

* * * * *

(c) When a medical examination made in compliance with the direction of the Commission shows that the annuitant has recovered, payment of the annuity shall be continued temporarily to afford the annuitant opportunity to seek an available position. In no case shall the annuity be paid for any period beyond one year from the date of the medical examination showing recovery. If the annuitant shall be reemployed in the Government service within the one year, the annuity shall be discontinued from the date of such reemployment.

* * * * *

(f) Annuity shall be discontinued at the end of one year after a determination that the income of the annuitant, from wages and self-employment, has in each of two succeeding calendar years equaled at least 80 percent of the current rate of compensation of the position from which he retired. In making such determination, income received before retirement, or for any calendar year before 1956, shall not be considered. If the annuitant is reemployed in the Government service within the one year, the annuity shall be discontinued from the date of such reemployment. If the annuitant had actual income as described herein, and the Commission's inability to make such determination timely was caused by the annuitant's failure to file report of income or by his filing a false, inaccurate, or incomplete report, the annuity shall be discontinued at the expiration of one year after the two-year period.

§ 29.7 Effective dates of annuities.

(a) An annuity payable from the civil-service retirement and disability fund allowed on or after September 6, 1960, shall commence:

(1) The day after (i) separation, or (ii) salary ceases and the employee meets the disability and service requirements, in case of disability retirement.

(2) The day after (i) separation, or (ii) salary ceases and the employee meets the age and service requirements, in case of age retirement, optional retirement, or immediate retirement based on involuntary separation.

(3) The day after attainment of the specified age, in case of deferred retirement.

(4) The day after (i) death of the employee or annuitant, (ii) attainment of age 50 where annuity is so deferred, or (iii) claim is received in the Commission where annuity is authorized by section 2 of Public Law 85-465, in case of a qualified survivor.

(b) (1) Except as provided in § 29.6, an employee's annuity shall terminate on the day of death or from the date of any other terminating event in each case where, on or after September 6, 1960, (i) Commission action to terminate the annuity is taken, or (ii) survivor annuity is allowed commencing the day after the retired employee's death.

(2) A survivor's annuity shall terminate the end of the month preceding death or the occurrence of any other terminating event in each case where Commission action to terminate the annuity is taken on or after September 6, 1960.

(c) Annuity shall accrue on a daily basis, one-thirtieth of the monthly rate constituting the daily rate, with no accrual for the 31st day of any month and with the last day of a 28-day month constituting 3 days (or the last day of a 29-day month 2 days) for accrual purposes.

§ 29.17 Automatic separation; exemption.

(a) When an employee meets the requirements for age retirement on any day within a month, he will be subject to automatic separation at the end of that month. The head of the employing agency must notify each such employee regarding the fact of separation at least 60 days in advance thereof; should the agency head fail, through error, to give timely notification, the employee may not be separated without his consent until the end of the month in which such 60-day notice expires.

(b) When a department or agency wishes to secure an exemption from automatic separation for one of its employees, other than a Presidential appointee, the head of such department or agency shall submit recommendation to that effect to the Commission.

(c) Such recommendation shall contain (1) a statement that the employee is willing to remain in service, (2) a recital of facts tending to establish that his retention would be in the public interest, (3) the period for which the exemption is desired, which period may not exceed one year, and (4) the reasons why the simpler method of retiring the employee and immediately reemploying him is not being used.

(d) Such recommendation shall be accompanied by a medical certificate showing the employee's physical fitness to perform his work.

(e) No exemption will be approved by the Commission after the automatic separation date applicable to the employee. For this reason, the recommendation should be forwarded to the Commission at least thirty days in advance of such separation date.

§ 29.18 Reemployment of annuitants.

* * * * *

(c) This paragraph shall apply to each annuitant (1) who retired for disability and is found before reaching age 60 to be recovered or restored to earning capacity, or (2) whose annuity is based on involuntary separation for reasons other than age or misconduct or delinquency. If such annuitant becomes employed on or after October 1, 1956, in an appointive or elective position wherein he is not excluded from retirement coverage by statute or by § 29.2, (i) retirement deductions shall be made from his salary, (ii) his future annuity rights shall be determined under the law in effect at the date of his subsequent separation, and (iii), if Commission action to determine his annuity was not taken before September 6, 1960, his annuity shall be terminated from the date of such employment. If such annuitant becomes employed on or after October 1, 1956,

in an appointive or elective position wherein he is excluded from retirement coverage by statute or by § 29.2, (*a*) no retirement deductions shall be made from his salary, and (*b*), if Commission action to suspend his annuity was not taken before September 6, 1960, his annuity shall be suspended from the date of such employment to the day on which his subsequent separation occurs, except that if an annuitant whose annuity is based on such involuntary separation becomes employed on or after November 15, 1958, (*1*) his annuity shall continue, (*2*) no retirement deductions shall be made from his salary, and (*3*) there shall be deducted from his salary, except for lump-sum leave purposes, an amount equal to the annuity allocable to the period of actual employment.

(d) This paragraph shall apply to each annuitant who is not described in the first sentence of paragraph (c) of this section. If such annuitant becomes employed on or after October 1, 1956, in an appointive or elective position, (1) his annuity shall continue, (2) no retirement deductions shall be made from his salary, and (3) there shall be deducted from his salary, except for lump-sum leave purposes, an amount equal to the annuity allocable to the period of actual employment. If such annuitant who becomes employed on or after October 1, 1956, or who was serving on July 31, 1956, serves continuously for at least one year in full-time employment not excluded from coverage by section 2(b) of the Civil Service Retirement Act, he shall, upon termination of such employment by separation for more than three calendar days or by conversion to other than full-time status, receive a supplemental annuity. Such supplemental annuity (i) shall be computed under the formula provided by the law in effect at the date of termination of employment, (ii) shall be based on all periods of full-time employment performed after his retirement, with such periods considered as part of his total service, and (iii) shall be based on the average basic salary (before annuity deduction) received during such periods of full-time employment. If the annuitant serves continuously for at least five years in full-time employment not excluded from coverage by section 2(b) of the Retirement Act, and his separation therefrom occurs after July 11, 1960, he may make deposit in the retirement fund covering such employment and elect, in lieu of the supplemental annuity described herein, to have retirement rights redetermined under the law in effect at separation date. The supplemental or redetermined annuity allowed on or after September 6, 1960, shall commence the day after (*a*) separation from such employment, or (*b*) salary ceases and the anunitant meets the service requirements. Employment shall be considered continuous unless interrupted by a separation from service exceeding three calender days, but credit will not be allowed for any period of separation or nonpay status which exceeds three calendar days.

2. Paragraph (c)(3) of § 29.16 is amended as set out below.

§ 29.16 Appeals.

* * * * * *

(c) * * *

(3) In case of a disability annuitant who is found upon medical examination to have recovered, or is determined to have been restored to earning capacity, the time allowed for filing an appeal shall be not later than 90 days from the date of final notice of proposed discontinuance of annuity.

(Sec. 16, 70 Stat. 758; 5 U.S.C. 2266)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 60-8721; Filed, Sept. 19, 1960; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 330—FEDERAL PLANT PEST REGULATIONS

Emergency Measures; Seals

On July 26, 1960, notice of proposed amendments of the Federal Plant Pest Regulations (Part 330, Chapter III, Title 7 of the Code of Federal Regulations) was published in the FEDERAL REGISTER (25 F.R. 7076). After due consideration of all relevant matters presented and pursuant to sections 105 and 106 of the Federal Plant Pest Act of 1957 (7 U.S.C. 150dd, 150ee), the said Part 330 is hereby amended in the following respects:

§ 330.106 [Amendment]

1. Section 330.106, relating to emergency measures, is amended by adding a new paragraph (d) to read as follows:

(d) *Khapra beetle infestations of means of conveyance, or cargo or stores thereof; other infestations.* As a means of preventing the dissemination into the United States, or interstate, of the khapra beetle (Trogoderma granarium Everts), the following procedures will be applicable when that insect is found, or there is reason to believe it is present, in a means of conveyance within paragraph (a) of this section, or in any cargo or stores in such a means of conveyance, or in any cargo or stores unloaded or landed, or being unloaded or landed, in the United States therefrom. These procedures will also apply with respect to other plant pests when the inspector finds they are necessary and sufficient to prevent the spread of such pests.

(1) *Infestation in storerooms and similar compartments of means of conveyance (except aircraft).* (i) When infestation is found only in stores or storerooms, galleys, pantries, or similar noncargo compartments of a means of ccnveyance, except aircraft, the inspector shall prescribe and supervise the application of such remedial measures as, in his opinion, will be effective under conditions that will not spread the infestation to other parts of the means of conveyance, or to adjacent piers or other installations. If, in the opinion of the inspector, fumigation is the only available safeguard to eliminate the infestation, he shall order the owner to arrange for immediate fumigation of the infested stores and portions of the means of conveyance.

(ii) If the means of conveyance is to leave the territorial limits of the United States directly for a port in another country within 24 hours of such order, the inspector may suspend compliance with the fumigation requirement pending departure from the United States. Pending fumigation or departure, the inspector may seal the openings of infested compartments, packages, or articles, if in his opinion the action is necessary to prevent plant pest dissemination while the means of conveyance remains in the territorial limits of the United States, as authorized in § 330.110. The inspector may extend the 24-hour period to 48 hours, if, in his judgment, such extension is warranted by plans of the owner to remove the means of conveyance from the territorial limits of the United States within the extended period, the inability of the contractor to begin fumigation within the 24-hour period, or other reason deemed valid by the inspector. Further extension shall be given only under authority of the Director. Pending compliance with the requirement of fumigation, or the departure from the territorial limits of the United States directly for a port in another country, no stores, laundry, furnishings or equipment, or other articles or products whether in cargo or stores, shall be unloaded from the means of conveyance except as authorized by the inspector and under conditions prescribed by him. The owner of an infested means of conveyance under notice for fumigation which leaves the territorial limits of the United States without fumigation should arrange for the eradication of the infestation before returning to the same or another port in the United States. Upon return to a port in the United States and unless the infestation has been eliminated to the satisfaction of the inspector, the means of conveyance shall be subject to fumigation immediately upon arrival in the United States. Unloading or landing of any product or article shall not be permitted pending compliance with the fumigation requirement, except as authorized by the inspector and under conditions prescribed by him.

(iii) If the means of conveyance is to remain at the port where the infestation was found or is to be moved to another port in the United States, the inspector shall prescribe and supervise the application of the remedial measures at the port where the infestation is found, as provided in this paragraph, or he may authorize the means of conveyance to be moved to another port for fumigation or the application of other remedial measures under safeguards prescribed by him.

(iv) In all instances where the inspector prescribed procedures concerned with the application of remedial measures which involve (*a*) withholding permission to discharge articles or products; (*b*) permission to discharge after such

permission has been withheld; (c) discontinuance of discharging; or (d) resumption of discharging after it has been discontinued, the appropriate Customs officer shall be immediately notified in writing. The inspector shall also inform the Customs officers at the port where the infestation is found and at such other ports as may be necessary of the requirement for fumigation and/or permission to move coastwise to another U.S. port for fumigation or other remedial measures.

(2) *Infestation in cargo compartments of means of conveyance (except aircraft).* When infestation is found in cargo compartments or in cargo of a means of conveyance, except aircraft, the inspector shall prescribe and supervise the application of such remedial measures as, in his opinion are necessary, with respect to the cargo and the portions of the means of conveyance which contain or contained or were contaminated by the infested cargo. If in the opinion of the inspector fumigation is the only available safeguard to eliminate the infestation, he shall order the owner to arrange for immediate fumigation of the infested portions of such means of conveyance and cargo. However, if such cargo compartments cannot be fumigated without fumigating the entire means of conveyance, the inspector may order the entire means of conveyance and cargo to be fumigated. The inspector shall notify the owner of the means of conveyance of such requirement and the owner shall arrange for immediate fumigation. Discharge of cargo shall be discontinued unless the inspector allows it to continue under safeguards to be prescribed by him. The provisions applicable to stores and storerooms in subparagraph (1) (ii) and (iii) of this paragraph shall apply to cargo and cargo areas of such means of conveyance. Customs officers shall be informed as required in subparagraph (1) (iv) of this paragraph.

(3) *Infestation in an aircraft.* If infestation is found in an aircraft, the inspector may apply seals as provided in § 330.110, and he may require such temporary safeguards as he deems necessary, including the discontinuance of further unloading or landing of any products or articles except as authorized by him. Upon finding such infestation in an aircraft the inspector shall promptly notify the Division of all circumstances and the temporary safeguards employed, and the Division will specify the measures for eliminating the infestation which will not be deleterious to the aircraft or its operating components. Any insecticidal application required shall be approved by the Director for use in aircraft. If the aircraft is to depart from the territorial limits of the United States within 24 hours after the infestation is found, the inspector shall permit such departure in lieu of the application of other measures and shall prior to departure break any seals that would prevent access to the aircraft or safe operation thereof. Other seals shall remain intact at time of departure and shall be broken by the aircraft commander or a crew member upon his order only after the aircraft is beyond the territorial limits of the United States. Extension of the 24-hour period shall be given only under authority of the Director. The owner of the aircraft under notice of khapra beetle infestation which leaves the territorial limits of the United States before the infestation has been eradicated should arrange for eradication before returning the aircraft to the United States. Upon return to the United States, if the infestation is not eliminated to the satisfaction of the inspector, the aircraft shall be subject to the same disinfestation requirements and other safeguards immediately upon arrival in the United States. Customs officers shall be notified as required in subparagraph (1) (iv) of this paragraph.

(4) *Precautions.* The owner of a means of conveyance required to be fumigated pursuant to this section shall arrange with a competent operator to apply the fumigant under the supervision of the inspector. The owner shall understand that if certain fumigants are used they may result in residues in or on foodstuffs which may render them unsafe for use as food items. He is hereby warned against such use unless he ascertains that the fumigated foodstuffs are fit for human consumption. It should also be understood by the owner that emergency measures prescribed by the inspector to safeguard against dissemination of infestation may have adverse effects on certain products and articles, and that the acceptance of fumigation as a requirement is an alternative to the immediate removal of the infested means of conveyance and any products and articles thereon, from the territorial limits of the United States. Products or articles in a means of conveyance, or compartments thereof, which may be exposed to methyl bromide or other remedial measures and may be adversely affected thereby, may be removed from the means of conveyance or compartments thereof prior to the application of the remedial measures if in the opinion of the inspector this can be done without danger of plant pest dissemination and under conditions authorized by him, for additional inspection and/or application of effective remedial measures.

2. Section 330.106 is further amended by inserting in the first sentence of paragraph (a), after the phrase "discloses a plant pest", the following: ", or provides a reason to believe such a pest is present".

3. A new § 330.110 is added to read as follows:

§ 330.110 Seals.

(a) *Use authorized; form.* Whenever, in the opinion of the inspector, it is necessary, as a safeguard in order to prevent the dissemination of plant pests into the United States, or interstate, seals may be applied to openings, packages, or articles requiring the security provided by such seals. The words "openings, packages, or articles" shall include any form of container, shelf, bin, compartment, or other opening, package, or article which the inspector may have occasion to seal in lieu of more drastic action or otherwise, as a safeguard against plant pest dissemination. The seals may be automatic metal seals or labels or tags and will be provided by the Division. When they consist of a label or tag, they will be printed in black ink on yellow paper and read substantially as follows: "Warning! The opening, package, or article to which this seal is affixed is sealed under authority of law. This seal is not to be broken while within the territorial limits of the United States except by, or under instructions of, an inspector."

(b) *Breaking of seals.* Seals may be broken: (1) By an inspector; (2) by a Customs officer for Customs purposes, in which case the opening, package, or article will be resealed with Customs seals; (3) by the owner or his agent when the means of conveyance, product, or article has left the territorial limits of the United States; (4) by any person authorized by the inspector or the Director under conditions specified by the inspector or Director. No person shall break seals applied under authority of this section except as provided in this paragraph. The movement into or through the United States, or interstate, of any means of conveyance or product or article on which a seal, applied under this paragraph, has been broken in violation of this paragraph is hereby prohibited, except as authorized by an inspector.

(c) *Notice of sealing.* When an inspector seals any opening, product or article, he shall explain the purpose of such action to the owner or his representative and shall present him with a written notice of the conditions under which the seal may be broken, if requested to do so.

4. For purposes of identification, in § 330.106, headings are hereby inserted before paragraphs (a), (b), and (c), respectively, as follows: "(a) *Procedures to prevent pest dissemination.*"; "(b) *Orders for Remedial measures.*"; and "(c) *Failure to apply remedial measures.*"

(Secs. 105, 106, 71 Stat. 32, 33; 7 U.S.C. 150dd, 150ee)

These amendments shall become effective October 20, 1960.

The amendments to § 330.106 specify the nature of the emergency action that may be taken when carriers are found or are reasonably believed upon arrival to contain khapra beetle or other plant pests in the non-cargo or cargo areas of the carrier or in the stores or cargo. Such infestations have been discovered in increasing numbers in the past year. Heretofore, emergency action has been on an individual basis as the location and circumstances of the infestation required. These amendments publicize procedures that are adequate to meet any situation that may be encountered.

The amendments relate principally to the holding and fumigation of infested vessels, cargo, or stores; the administration of other remedial measures; the removal of the infested products or vessel from United States territory; and the discharge of cargo in accordance with safeguards that will prevent the spread of khapra beetle and other plant pests.

There is also included a new § 330.110 in the regulations specifying directions for the use of seals to prevent the un-

loading of cargo or ships' stores infested or suspected of being contaminated with plant pests and for other safeguard measures.

For purposes of identification, paragraph titles have been provided for existing §§ 330.106 (a), (b), and (c).

Done at Washington, D.C., this 14th day of September 1960.

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

[F.R. Doc. 60-8737; Filed, Sept. 19, 1960; 8:51 a.m.]

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

[Lemon Reg. 863, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 953.970 (Lemon Regulation 863; 25 F.R. 8739) are hereby amended to read as follows:

(ii) District 2: 255,750 cartons.

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

Dated: September 15, 1960.

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

[F.R. Doc. 60-8711; Filed, Sept. 19, 1960; 8:47 a.m.]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Expenses of Prune Administrative Committee for 1960–61 Crop Year and Rate of Assessment for Such Crop Year

Correction

In F.R. Doc. 60-8537 appearing at page 8808, of the issue for Wednesday, September 14, 1960, the following change should be made: In § 993.311(b) insert the words "and this part" after "(Marketing Agreement No. 110)".

PART 1030—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREGON

Determination Relative to Expenses and Fixing of Rate of Assessment for Initial (1960–61) Fiscal Period

Pursuant to the marketing agreement and Order No. 130 (7 CFR Part 1030; 25 F.R. 6914), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oregon, 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 proposals submitted by the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 1030.201 **Expenses and rate of assessment for the initial (1960–61) fiscal period.**

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee, established pursuant to the provisions of the aforesaid marketing agreement and order, to enable such committee to perform its functions, in accordance with the provisions thereof, during the initial fiscal period beginning July 21, 1960, and ending May 31, 1961, will amount to $2,150.

(b) *Rate of assessment.* The rate of assessment, which each handler who first handles prunes shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said marketing agreement and order is hereby fixed at one-half cent ($0.0050) per one-half bushel of prunes so handled by such handler during such fiscal period.

(c) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in public rule-making procedure, and good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) shipments of fresh prunes are now being made; (2) the rate of assessment is applicable to all prunes shipped during the aforesaid fiscal period; (3) the provisions hereof do not impose any obligations on a handler until such handler handles prunes; and (4) it is essential that the specification of assessment rate be issued immediately so as to enable the said Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee to perform its duties and functions in accordance with said marketing agreement and order.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order. The terms hereof shall become effective upon publication in the FEDERAL REGISTER.

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

Dated: September 14, 1960.

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

[F.R. Doc. 60-8713; Filed, Sept. 19, 1960; 8:47 a.m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

PART 1105—AGRICULTURAL CONSERVATION; HAWAII

Subpart—1961

The protection and conservation of the soil and water resources of farm and ranch lands is essential in order that these lands will continue to produce sufficient food and other raw materials to meet future needs. All people, not farmers and ranchers alone, have a stake in, and a part of the responsibility for, protecting and conserving our farm and ranch lands. Recognizing this, the Congress appropriates funds to share with farmers and ranchers the cost of carrying out needed soil and water conservation measures. The Agricultural Conservation Progam is a means of making this Federal cost-sharing available to farmers and ranchers.

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INTRODUCTION

§ 1105.1000 Introduction.

(a) The U.S. Department of Agriculture offers every farmer and rancher in the State of Hawaii an opportunity to conserve and improve the productivity of his land through participation in the 1961 Agricultural Conservation Program.

(b) Under this program, part of the costs of the conservation practices is borne by the Government, and this represents the Nation's interest in what happens to its basic land and water resources.

(c) Costs will be shared on the performance of recommended practices at approved rates to the extent of available funds. Developed under the provisions of the Soil Conservation and Domestic Allotment Act, the program is designed to meet local conservation needs.

(d) The information contained in this subpart outlines the general provisions of the 1961 Agricultural Conservation Program for Hawaii and the general specifications and rates of Federal cost-sharing for practices.

GENERAL PROGRAM PRINCIPLES

§ 1105.1001 General program principles.

The 1961 Agricultural Conservation Program for Hawaii has been developed and is to be carried out on the basis of the following general principles:

(a) The program is confined to the conservation practices on which Federal cost-sharing is most needed in order to achieve the maximum conservation benefit in Hawaii.

(b) The program is designed to encourage those soil and water conservation practices which provide the most enduring conservation benefits practicably attainable in 1961 on the lands where they are to be applied.

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

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

(e) The rates of cost-sharing in the program are to be the minimum required

to result in substantially increased performance of needed soil and water conservation practices within the limits prescribed.

(f) The purpose of the program is to help achieve additional conservation on land now in agricultural production rather than to bring more land into agricultural production. The program is not applicable to the development of new or additional farmland by measures such as drainage, irrigation, and land clearing. Such of the available funds that cannot be wisely utilized for this purpose will be returned to the Public Treasury.

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

DEFINITIONS

§ 1105.1002 Definitions.

For the purposes of the 1961 program:

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

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

(c) "State" means the State of Hawaii.

(d) "State Office" means the Hawaii Agricultural Stabilization and Conservation Office in Honolulu, Hawaii.

(e) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity (and, wherever applicable, the State of Hawaii or a political subdivision or agency thereof) that, as landlord, tenant, or sharecropper, participates in the operation of a farm or ranch.

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

(g) "Cropland" means land which the State Office determines (1) was tilled in at least 1 of the 5 calendar years immediately preceding the crop year for which the determination is being made; or (2) was established in permanent vegetative cover within the 5 calendar years immediately preceding the crop year for which the determination is being made and was classified as cropland at the time of establishment; or (3) has been tilled but at the time of determination is in an established crop rotation pattern recognized in the community. Land planted to vineyards, orchards, or other trees which was classified as cropland at the time of planting shall retain the cropland classification only for the year of planting, except that portions of the land area within an orchard or vineyard not devoted to trees or vines shall be classified as cropland if such land area meets the requirements of the first sentence of this definition.

(h) "Orchardland" means the acreage in planted fruit trees, nut trees, coffee trees, papaya trees, banana plants, or vineyards.

(i) "Pastureland" means farmland, other than rangeland, on which the predominant growth is forage suitable for grazing and on which the spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

(j) "Rangeland" means land which produces, or can produce, forage suitable for grazing by range livestock without cultivation or general irrigation.

(k) "Merchantable timber" means any processed or unprocessed timber which is sold for cash by the producer.

(l) "Forest Service" means the Division of Forestry, State Department of Agriculture and Conservation.

ALLOCATION OF FUNDS

§ 1105.1003 Allocation of funds.

The amount of funds available for conservation practices under this program is $183,000. This amount does not include the amount set aside for administrative expenses and the amount required for increases in small Federal cost-shares in § 1105.1018. The State Office will allocate the funds available for conservation practices among the counties consistent with the needs for enduring conservation in the various counties and will give particular consideration to the furtherance of watershed programs sponsored by local people and organizations. The proportion of this fund initially allocated to any county for the 1961 program shall not be reduced from the distribution of such fund for the 1959 program year.

STATE AGRICULTURAL CONSERVATION PROGRAM

§ 1105.1004 Agencies participating in development of State program.

This program was developed within the pattern of the national program authorized by the Congress under the provisions of the Soil Conservation and Domestic Allotment Act, as amended. Adaptation to Hawaii's needs has been accomplished over a period of years through the cooperative assistance and advice of interested farmers and ranchers, as well as Government agency representatives from the Extension Service, Farmers Home Administration, Soil Conservation Service, Department of Agriculture and Conservation, and Agricultural Stabilization and Conservation Office. The program has been approved by the Administrator, ACPS, in Washington.

APPROVAL OF CONSERVATION PRACTICES

§ 1105.1005 Method and extent of approval.

The State Office will determine the extent to which program funds will be made available to share the cost of each approved practice on each farm or ranch, taking into consideration the available funds, the conservation problems of the individual farm or ranch and other farms and ranches, and the conservation work for which requested Federal cost-sharing is considered as most needed in 1961. The notice of approval shall show for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the Federal cost-share for the performance of that number of units of the practice. No practice may be approved for cost-sharing except as authorized by the program contained in this subpart, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a farm or acreage-quota basis, but shall be directed to the accomplishment of the most enduring conservation benefits attainable.

§ 1105.1006 Selection of practices.

(a) The practices included in the program are only those practices for which cost-sharing is essential to permit accomplishment of needed conservation work which would not otherwise be carried out.

(b) Each farmer or rancher shall be given an opportunity to request that the Federal Government share in the cost of those practices on which he considers he needs such assistance in order to permit their performance on his farm or ranch. The State Office, taking into consideration the farmer's or rancher's request and any conservation plan developed by the farmer or rancher with the assistance of any State or Federal agency, shall direct the available funds for cost-sharing to those farms and ranches and to those practices where cost-sharing is considered most essential to the accomplishment of the basic conservation objective of the Department—the use of each acre of agricultural land within its capabilities and the treatment

of each acre in accordance with its needs for protection and improvement.

§ 1105.1007 Pooling agreements.

Farmers or ranchers in any local area may agree in writing, with the approval of the State Office, to perform designated amounts of practices which, by conserving or improving the agricultural resources of the community, will solve a mutual conservation problem on the farms or ranches of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms or ranches of the persons who performed the practices.

§ 1105.1008 Prior request for cost-sharing.

Costs will be shared only for those practices, or components of practices, for which cost-sharing is requested by the farmer or rancher before performance thereof is started. For practices for which (a) approval was given under the 1960 Agricultural Conservation Program, (b) performance was started but not completed during the 1960 program year, and (c) the State Office believes the extension of the approval to the 1961 program is justified under the 1961 program regulations and provisions, the filing of the request for cost-sharing under the 1960 program may be regarded as meeting the requirement of the 1961 program that a request for cost-sharing be filed before performance of the practice is started.

§ 1105.1009 Program year and technical aid.

(a) Costs will be shared at the rates specified and within the limitations set forth in this subpart for carrying out during the period August 1, 1960, through December 31, 1961, the conservation practices, or components thereof, included in this subpart which are approved for a farm or ranch. The specifications and rates of cost-sharing for practices approved under another program and transferred to the 1961 program shall be the specifications and rates of cost-sharing for those practices under the program under which they were approved.

(b) The Soil Conservation Service is responsible for the technical phases of the practices contained in §§ 1105.1046, 1105.1050 to 1105.1052, 1105.1060 to 1105.1071, 1105.1074, and 1105.1076 to 1105.1079 (practices A–8, B–5 to B–7, C–4 to C–15, E–2, and F–2A to F–2D). This responsibility shall include (1) a finding that the practice is needed and practicable on the farm, (2) necessary site selection, other preliminary work, and layout work of the practice, (3) necessary supervision of the installation, and (4) certification of performance for all requirements of the practice except those for which a certification by the farmer is to be accepted in accordance with instructions issued by the Administrator, ACPS. For the practice contained in § 1105.1057 (practice C–1), the Soil Conservation Service is responsible (1) for determining that the practice is needed and practicable on the farm, and (2) for necessary site selection, other preliminary work, and layout work of the practice. For the practices contained in §§ 1105.1053 and 1105.1059 (practices B–8 and C–3), the Soil Conservation Service is responsible for determining that the practice is needed and practicable on the farm. The State Conservationist of the Soil Conservation Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities. The Soil Conservation Service will utilize to the full extent available resources of the State forestry agency in carrying out its assigned responsibilities for the practice contained in § 1105.1046 (practice A–8).

(c) The Forest Service (Forestry Division, State Department of Agriculture and Conservation) is responsible for the technical phases of the practices contained in §§ 1105.1045 and 1105.1055 (practices A–7 and B–10). This responsibility shall include (1) providing necessary specialized technical assistance, (2) development of specifications for the practice, and (3) working through the State Office, determining compliance in meeting these specifications. The Forest Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities.

§ 1105.1010 Practice specifications and approval.

(a) Minimum specifications which practices must meet to be eligible for Federal cost-sharing are set forth in this subpart. Additional specifications may be secured from the State Office or the Soil Conservation Service State Office in Honolulu.

(b) For those practices in this subpart which authorize Federal cost-sharing for minimum required applications of liming materials and commercial fertilizers, the minimum required application on which cost-sharing is authorized shall in each case be determined on the basis of current soil tests: *Provided, however,* That if the State Office determines available facilities are inadequate to provide the necessary tests, the minimum required applications of these materials shall be those recommended for the area by the Agricultural Extension Service. Liming materials contained in commercial fertilizers, in phosphate rock, or in basic slag will not qualify for Federal cost-sharing.

(c) Practice specifications shall provide minimum performance requirements which will qualify the practice for cost-sharing and, where applicable, may also provide maximum limits of performance which will be eligible for cost-sharing. The minimum performance requirements established for a practice shall represent those levels of performance which are necessary to assure a satisfactory practice. The maximum limits of performance for cost-sharing established for a practice shall represent those levels of performance which are needed in order for the practice to be most effective in meeting the conservation problem and which are not in excess of levels for which cost-sharing can be justified.

(d) Costs for the practices contained in §§ 1105.1041, 1105.1042, 1105.1045, 1105.1046, 1105.1048, 1105.1057, 1105.1058, and 1105.1072 (practices A–1, A–2, A–7, A–8, B–1, C–1, C–2, and D–2) may be shared even though a good stand is not established, if the State Office determines, in accordance with approved standards, that the practices were carried out in a manner which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm or ranch operator. The State Office may require as a condition of cost-sharing in such cases that the area be reseeded or replanted, or that other needed protective measures be carried out.

(e) Notwithstanding other provisions of the 1961 program, costs may be shared for performance actually rendered even though the minimum requirements for a practice are not met, if the farmer or rancher establishes to the satisfaction of the State Office and representatives of any other agency having responsibility for technical phases of the practice (1) that he made every reasonable effort to meet the minimum requirement, and (2) that the practice as performed adequately meets the conservation problem.

§ 1105.1011 Completion of practices.

Federal cost-sharing for the practices contained in this subpart is conditioned upon the performance of the practices in accordance with all applicable specifications and program provisions. Except as provided in §§ 1105.1012 and 1105.1013, practices must be completed during the program year in order to be eligible for cost-sharing.

§ 1105.1012 Practices substantially completed during program year.

Approved practices may be deemed, for purposes of payment of cost-shares, to have been carried out during the 1961 program year, if the State Office determines that they are substantially completed by the end of the program year. However, no cost-shares for such practices shall be paid until they have been completed in accordance with all applicable specifications and program provisions, except as provided in § 1105.1013.

§ 1105.1013 Practices requiring more than one program year for completion.

Cost-shares approved under the 1961 program will not be considered as earned until all components of the approved practices are completed in accordance with all applicable specifications and program provisions. Cost-shares for completed components may be paid only after the practice is substantially completed, and only on the condition that the farmer or rancher will complete the remaining components of the practice within the time prescribed by the State Office which will afford the farmer or rancher a fair and reasonable opportunity to complete them, unless prevented from doing so for reasons beyond his control and regardless of whether cost-sharing therefor is offered, or refund the cost-shares paid to him. If an

approved practice is not substantially completed by the end of the 1961 program year, the practice may be considered for reapproval under the 1962 program.

§ 1105.1014 Initial establishment or installation of practices.

Under the initial establishment principle as it applies to the 1961 program, Federal cost-sharing may be authorized for the first establishment or installation of a practice with cost-sharing since the 1953 program on a particular piece of land while under the control of the current operator. Federal cost-sharing may also be authorized for replacement, enlargement, or restoration of practices for which cost-sharing has been allowed since the 1953 program if the practice has served for its normal lifespan, or if all of the following conditions exist:

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

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

(c) The State Office believes that the replacement, enlargement, or restoration of the practice merits consideration under the program to an equal extent with other practices for which cost-sharing has not been allowed under a previous program.

§1105.1015 Repair, upkeep, and maintenance of practices.

Federal cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

FEDERAL COST-SHARES

§ 1105.1016 Conservation materials and services.

(a) *Availability.* (1) Part or all of the Federal cost-share for an approved practice may be in the form of conservation materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government, as indicated by the debt record maintained in the State Office, except in those cases where the agency to which the debt is owed waives its rights to setoff in order to permit the furnishing of materials and services.

(2) Title to any material furnished through the program shall vest in the Federal Government until the material is applied or planted, or all charges for the material are satisfied.

(b) *Cost to farmer or rancher.* The farmer or rancher will pay that part of the cost of the material or service, as established under instructions issued by the Administrator, ACPS, which is in excess of the Federal cost-share attributable to the use of the material or service or, upon request by the farmer or rancher and approval by the State Office, the farmer or rancher will pay that part of the cost of the material or service which is in excess of the farmer's or rancher's Federal cost-share for all components of the practice which will likely be completed during the program year. The Federal cost-share increase on the amount of the Federal cost-share so determined may be advanced as a credit against that part of the cost of the material or service required to be paid by the farmer or rancher.

(c) *Discharge of responsibility for materials and services.* (1) The person to whom a material or service is furnished under the 1961 program will be relieved of responsibility for the material or service upon determination by the State Office that the material or service was used for the purpose for which it was furnished and that any other components of the practice, on which the amount of the Federal cost-share advance toward the cost of the material or service was determined, have been carried out in accordance with all applicable specifications and program provisions. If the person uses any material or service for any purpose other than that for which it was furnished, he shall be indebted to the Federal Government for that part of the cost of the material or service borne by the Federal Government and shall pay such amount to the Treasurer of the United States direct or by withholdings from Federal cost-shares otherwise due him under the program.

(2) Any person to whom materials are furnished shall be responsible to the Federal Government for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may in accordance with instructions issued by the Administrator, ACPS, be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material, or be retained by the person for use in a subsequent program year.

§ 1105.1017 Division of Federal cost-shares.

(a) *Federal cost-shares.* The Federal cost-share attributable to the use of conservation materials or services shall be credited to the person to whom the materials or services are furnished. Other Federal cost-shares shall be credited to the person who carried out the practices by which such other Federal cost-shares are earned. If more than one person contributed to the carrying out of such practices, the Federal cost-share shall be divided among such persons in the proportion that the State Office determines they contributed to the carrying out of the practices. In making this determination, the State Office shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each practice on a particular acreage, and shall assume that each contributed equally unless it is established to the satisfaction of the State Office that their respective contributions thereto were not in equal proportion. The furnishing of land or the right to use water will not be considered as a contribution to the carrying out of any practice.

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

§ 1105.1018 Increase in small Federal cost-shares.

The Federal cost-share computed for any person with respect to any farm or ranch shall be increased as follows:

(a) Any Federal cost-share amounting to $0.71 or less shall be increased to $1.

(b) Any Federal cost-share amounting to more than $0.71, but less than $1, shall be increased by 40 percent.

(c) Any Federal cost-share amounting to $1 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed:	*Increase in cost-share*
$1 to $1.99	$0.40
$2 to $2.99	.80
$3 to $3.99	1.20
$4 to $4.99	1.60
$5 to $5.99	2.00
$6 to $6.99	2.40
$7 to $7.99	2.80
$8 to $8.99	3.20
$9 to $9.99	3.60
$10 to $10.99	4.00
$11 to $11.99	4.40
$12 to $12.99	4.80
$13 to $13.99	5.20
$14 to $14.99	5.60
$15 to $15.99	6.00
$16 to $16.99	6.40
$17 to $17.99	6.80
$78 to $18.99	7.20
$19 to $19.99	7.60
$20 to $20.99	8.00
$21 to $21.99	8.20
$22 to $22.99	8.40
$23 to $23.99	8.60
$24 to $24.99	8.80
$25 to $25.99	9.00
$26 to $26.99	9.20
$27 to $27.99	9.40
$28 to $28.99	9.60
$29 to $29.99	9.80
$30 to $30.99	10.00
$31 to $31.99	10.20
$32 to $32.99	10.40
$33 to $33.99	10.60
$34 to $34.99	10.80
$35 to $35.99	11.00
$36 to $36.99	11.20
$37 to $37.99	11.40
$38 to $38.99	11.60
$39 to $39.99	11.80
$40 to $40.99	12.00
$41 to $41.99	12.10
$42 to $42.99	12.20
$43 to $43.99	12.30
$44 to $44.99	12.40
$45 to $45.99	12.50
$46 to $46.99	12.60
$47 to $47.99	12.70
$48 to $48.99	12.80
$49 to $49.99	12.90
$50 to $50.99	13.00
$51 to $51.99	13.10
$52 to $52.99	13.20
$53 to $53.99	13.30
$54 to $54.99	13.40
$55 to $55.99	13.50
$56 to $56.99	13.60
$57 to $57.99	13.70
$58 to $58.99	13.80
$59 to $59.99	13.90
$60 to $185.99	14.00
$186 to $199.99	[1]
$200 and over	[2]

[1] Increase to $200.

[2] No Increase.

§ 1105.1019 Maximum Federal cost-share limitation.

(a) The total of all Federal cost-shares under the 1961 program to any person with respect to farms or ranching units in Hawaii for approved practices which are not carried out under pooling agreements shall not exceed the sum of $1,500, and for all approved practices, including those carried out under pooling agreements, shall not exceed the sum of $10,000. The total of all Federal cost-shares under the 1961 program to any person with respect to farms, ranching units, and turpentine places in the United States (including Puerto Rico and the Virgin Islands) for approved practices which are not carried out under pooling agreements shall not exceed the sum of $2,500, and for all approved practices, including those carried out under pooling agreements, shall not exceed the sum of $10,000.

(b) All or any part of any Federal cost-share which otherwise would be due any person under the 1961 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, designed to evade, or which has the effect of evading the provisions of this section.

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

§ 1105.1021 Maintenance of practices.

The sharing of costs, by the Federal Government, for the performance of approved conservation practices on any farm or ranch under the 1961 program will be subject to the condition that the person with whom the costs are shared will maintain such practices throughout their normal lifespans in accordance with good farming practices as long as the land on which they are carried out is under his control.

§ 1105.1022 Practices defeating purposes of programs.

If the State Office finds that any person has adopted or participated in any practice during the 1961 program year which tends to defeat the purposes of the 1961 or any previous program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out under a previous program, it may withhold, or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1961 program.

§ 1105.1023 Depriving others of Federal cost-share.

If the State Office finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the Federal cost-share due that person under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the Federal cost-share which otherwise would be due him under the 1961 program.

§ 1105.1024 Filing of false claims.

If the State Office finds that any person has knowingly supplied false information, or has knowingly filed a false claim, including a claim for payment of the Federal cost-share under the 1961 program for practices not carried out, or for practices carried out in such a manner that they do not meet the required specifications therefor, such person shall not be eligible for any Federal cost-share under the 1961 program and shall refund all amounts that may have been paid to him under the 1961 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1105.1025 Misuse of purchase orders.

If the State Office finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued, and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any Federal cost-share under the 1961 program and shall refund all amounts that may have been paid to him under the 1961 program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1105.1026 Federal cost-shares not subject to claims.

Any Federal cost-share, or portion thereof, due any person shall be determined and allowed without regard to questions of title under State law; without deduction of claims for advances (except as provided in § 1105.1027, and except for indebtedness to the United States subject to setoff under orders issued by the Secretary (Part 13 of this title)); and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 1105.1027 Assignments.

Any person who may be entitled to any Federal cost-share under the 1961 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1961, including the carrying out of soil and water conservation practices. No assignment will be recognized unless it is made in writing on Form ACP–69 and in accordance with the regulations issued by the Secretary (Part 1110 of this chapter).

§ 1105.1028 Practices carried out with State or Federal aid.

The total extent of any practice performed shall be reduced for the purpose of computing cost-shares by the percentage of the total cost of the items of performance on which costs are shared which the State Office determines was furnished by a State or Federal agency. Materials or services furnished through the 1961 program, materials or services furnished by any agency of a State to another agency of the same State, or materials or services furnished or used by a State or Federal agency for the performance of practices on its land shall not be regarded as State or Federal aid for the purposes of this section.

§ 1105.1029 Compliance with regulatory measures.

Persons who carry out conservation practices for cost-sharing under the 1961 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws and regulations.

APPLICATION FOR PAYMENT OF FEDERAL COST-SHARES

§ 1105.1030 Persons eligible to file application.

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

§ 1105.1031 Time and manner of filing application and required information.

(a) It shall be the responsibility of persons participating in the program to submit to the State Office forms and information needed to establish the extent of the performance of approved conservation practices and compliance with applicable program provisions. Time limits with regard to the submission of such forms and information shall be established where necessary for efficient administration of the program. Such time limits shall afford a full and fair opportunity to those eligible to file the forms or information within the period prescribed. At least 2 weeks' notice to the public shall be given of any general time limit prescribed. Such notice shall be given by mailing notice to each farm inspector and making copies available to the press. Other means of notification, including radio announcements and individual notices to persons affected, shall be used to the extent practicable. Notice of time limits which are applicable to individual persons, such as time limits for reporting performance of approved practices, shall be issued in writing to the persons affected. Exceptions to time limits may be made in cases where failure to submit required forms and information within the applicable time limits is due to reasons beyond the control of the farmer or rancher.

(b) Payment of Federal cost-shares will be made only upon application submitted on the prescribed form to the State Office. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the State Office within the applicable time limit.

(c) If an application for a farm or ranch is filed within the time prescribed, any producer on the farm or ranch who did not sign the application may subsequently apply for his share of the cost-share, provided he does so on or before December 31, 1962.

APPEALS

§ 1105.1033 Appeals.

(a) Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the State Office in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his Federal cost-shares with respect to the farm or ranch. The State Office shall notify him of its decision in writing within 15 days after receipt of written request for reconsideration. If the person is dissatisfied with the decision of the State Office, he may, within 15 days after the decision is forwarded to or made available to him, request the Administrator, ACPS, to review the decision of the State Office. The decision of the Administrator, ACPS, shall be final. Written notice of any decision rendered under this section by the State Office shall also be issued to each other landlord, tenant, or sharecropper on the farm or ranch who may be adversely affected by the decision.

(b) Appeals considered under this section shall be decided in accordance with the provisions of this subpart on the basis of the facts of the individual case: *Provided,* That the Secretary, upon the recommendation of the Administrator, ACPS, and the State Office, may allow cost-shares for performance not meeting all program requirements, where not prohibited by statute, if in his judgment such action is needed to permit a proper disposition of the appeal. Such action may be taken only where the farmer or rancher, in reasonable reliance on any instruction or commitment of any member, employee, or representative of the State Office, in good faith performed an eligible conservation practice and such performance reasonably accomplished the conservation purpose of the practice. The amount of the cost-share in such cases shall be computed on the actual performance and shall not exceed the amount to which the farmer or rancher would have been entitled if the performance rendered had met all requirements for the practice.

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

§ 1105.1035 Authority.

The program contained in this subpart is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148; 16 U.S.C. 590g–590q), and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1961.

§ 1105.1036 Availability of funds.

(a) The provisions of the 1961 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the paying of the Federal cost-shares provided in this subpart is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation.

(b) The funds provided for the 1961 program will not be available for paying Federal cost-shares for which applications are filed in the State Office after December 31, 1962.

§ 1105.1037 Applicability.

(a) The provisions of the 1961 program contained in this subpart are not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) noncropland owned by the United States which was acquired or reserved for conservation purposes, or which is to be retained permanently under Government ownership, including, but not limited to, grazing lands administered by the Forest Service of the U.S. Department of Agriculture, or by the Bureau of Land Management (including lands administered under the Taylor Grazing Act) or the Fish and Wildlife Service of the U.S. Department of the Interior, except as indicated in paragraph (b)(6) of this section; (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it; and (4) farmlands, the use of which the State Office determines will probably change within approximately 2 years to nonagricultural use.

(b) The program is applicable to (1) privately owned lands; (2) lands owned by the State of Hawaii or a political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the Federal Farm Mortgage Corporation, the U.S. Department of Defense, or by any other Government agency designated by the Administrator, ACPS; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) noncropland owned by the United States for performance by private persons of conservation practices which directly conserve or benefit nearby or adjoining privately owned lands of such persons who maintain and use such federally owned noncropland under agreement with the Federal agency having jurisdiction thereof.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

§ 1105.1041 Practice A–1: Establishment of permanent vegetative cover in coffee orchards.

Federal cost-sharing will be limited to the establishment of vegetative cover which may be in strips not less than 3 feet wide across the slope in young (less than 5 years old) coffee orchards as a protection against erosion. Receipts, invoices, or other evidence of cost is required. Species planted may include vetch, clover, big trefoil, alfalfa, molasses grass, Rhodes grass, featherfinger grass, or other species approved by the State Office. Needed liming materials must be applied; cost-sharing may be authorized under § 1105.1043 (practice A–4).

Maximum Federal cost-share. (a) 75 percent of the cost of seed, sprigs, or cuttings at the farm, but not in excess of $7.50 per acre of area planted to grasses and legumes.

(b) 60 percent of the average cost at the farm of the minimum needed application of approved commercial fertilizer, including nitrogen (as determined by soil test) for establishment of the vegetative cover, but not in excess of $15 per acre of area treated.

§ 1105.1042 Practice A–2: Initial establishment of permanent pasture grass or grass-legume cover.

This practice is for soil or watershed protection by seeding, sodding, or sprigging adapted perennial grasses and/or legumes. All equipment used to prepare land for seeding shall operate across the slope as near to the contour as practicable. In areas where long slopes are to be broken out of native vegetation, the land preparation shall be done in contour strips and established to improve pasture before the intermediate strips shall be broken out. Detailed specifications are contained in Technical Standards on file in the State Office. The seed must be well distributed over the area sown to insure a good stand at maturity. Any locally adapted crops approved by the State Office may be used but must be seeded at not less than the minimum seeding rates per acre prescribed by the State Office. In order to meet minimum requirements, slips or stools of grasses may be planted in continuous rows. Grass and legume charts are available in the State Office. Costs will be shared only if a satisfactory stand of the planted grass or grass-legume mixture is established within 6 months after clearing, unless the farmer establishes that he was prevented from producing a satisfactory cover within the 6-month period by reasons beyond his control, in which case a longer period may be approved. No area planted shall be grazed until grass and legume-grass mixtures are well established. This practice is not applicable to land occupied by a merchantable stand of timber or pulpwood, or to land which, if cleared, would be suitable for continued production of crops. Receipts or invoices showing purchase of seed, or records of collecting, will be required as evidence of cost. Needed liming materials must be applied; cost-sharing may be authorized under § 1105.1043 (practice A–4).

Maximum Federal cost-share. (a) 50 percent of the cost of seed, sprigs, or stools, but not over $7.50 per acre planted.

(b) 50 percent of the cost at the farm of the minimum needed application of fertilizer (as determined by soil test) for establishing the cover, but not in excess of $10 per acre. (Receipts, invoices, or other evidence of cost is required.)

§ 1105.1043 Practice A–4: Initial treatment of cropland, orchardland, or pasture with liming material.

Purpose of practice is correction of soil acidity and addition of needed cal-

cium to permit best use of legumes and/or grasses for soil improvement and protection. Treatment of land which is in pasture and which is to remain in pasture will be eligible for cost-sharing only if recent soil analysis and Agricultural Extension Service recommendations justify the use of lime and all measures needed to assure an improved vegetative cover which will provide adequate and extended soil protection are carried out. Cost-shares paid for this practice will not be considered earned unless the land treated is devoted to eligible grass and/or legumes at time of treatment or in 1961 or 1962. Liming material must contain at least 80 percent calcium carbonate equivalent and be fine enough to pass through a 20-mesh screen (unless the Agricultural Extension Service of the University of Hawaii recommends otherwise) and must be evenly applied to the land. Except as provided in § 1105.1014, cost-sharing may not be authorized for this practice on land on which this practice or another practice involving the application of liming material was carried out in 1957 or a subsequent year, unless a current soil test shows a need for a substantial application of liming material. Receipts or invoices showing the purchase of lime, properly dated and signed by the vendor, will be required as evidence by the checker at the time of inspection.

Maximum Federal cost-share. (a) 50 percent of the cost of liming material delivered to the farm on an island having locally produced lime available.

(b) 75 percent of the cost of liming material delivered to the farm on an island without locally produced lime available.

§ 1105.1044 Practice A–5: Initial establishment of cross-slope stripcropping to protect soil from water or wind erosion.

All cultural operations, including row crop planting, must be performed as nearly as practicable on the contour. Federal cost-sharing may be authorized for removing stone walls or hedgerows where such such removal is necessary to the establishment of an effective cross-slope stripcropping system.

Maximum Federal cost-share. (a) $5 per acre established in cross-slope stripcropping during the year.

(b) 50 per cent of the cost of removing stone walls or hedgerows. (Evidence of cost is required.)

§ 1105.1045 Practice A–7: Initial establishment of a stand of trees or shrubs on farmland for purposes other than the prevention of wind or water erosion.

Plantings must be protected from fire and grazing. Fencing newly planted trees or shrubs under this practice for protection against grazing is eligible for cost-sharing only if the construction specifications in § 1105.1054 (practice B–9) are employed. Acceptable plant species and spacing are those recommended by the Forestry Division of the State Department of Agriculture and Conservation.

Maximum Federal cost-share. $8 per 100 trees or shrubs planted.

§ 1105.1046 Practice A–8: Initial establishment of a stand of trees or shrubs on farmland to prevent wind or water erosion.

Plantings must be protected from fire and grazing. Fencing newly planted trees or shrubs under this practice for protection against grazing is eligible for cost-sharing only if the construction specifications in § 1105.1054 (practice B–9) are employed. Acceptable plant species are those recommended by the Forestry Division of the State Department of Agriculture and Conservation. The spacing of trees and shrubs shall be in accordance with specifications developed by the Soil Conservation Service.

Maximum Federal cost-share. $8 per 100 trees or shrubs planted.

§ 1105.1048 Practice B–1: Initial improvement of an established permanent grass or grass-legume cover.

This practice is for soil or watershed protection by seeding, sodding, or sprigging adapted perennial grasses and/or legumes. All equipment used to prepare land for seeding shall operate across the slope as near to the contour as practicable. The seed must be well distributed over the area sown to insure a good stand at maturity. Any locally adapted crops approved by the State Office may be used but must be seeded at not less than the minimum seeding rates per acre prescribed by the State Office. In order to meet minimum requirements, slips or stools of grasses may be planted in continuous rows. Grass and legume charts are available in the State Office. Costs will be shared only if a satisfactory stand of the planted grass or grass-legume mixture is established within 6 months after land preparation, unless the farmer establishes that he was prevented from producing a satisfactory cover within the 6-month period by reasons beyond his control, in which case a longer period may be approved. No area seeded shall be grazed until grass and legume-grass mixtures are well established. Receipts or invoices showing purchase of seed, or records of collecting, will be required as evidence of cost. Federal cost-sharing may not be approved for normal maintenance measures such as annual topdressings with fertilizer or other mineral elements. This practice is not applicable to land on which the needed improvement measures will constitute complete reestablishment of the vegetative cover. Needed liming materials must be applied; cost-sharing may be authorized under § 1105.1043 (practice A–4). The lifespan of this practice is 4 years.

Maximum Federal cost-share. (a) 50 percent of the cost of seeds, sprigs, or stools, but not over $7.50 per acre planted.

(b) 50 percent of the cost at the farm of the minimum needed application of fertilizer (as determined by soil test) for improving cover, but not in excess of $10 per acre. (Receipts, invoices, or other evidence of cost is required.)

§ 1105.1049 Practice B–3: Initial controlling of competitive shrubs on range or pasture land.

Purpose is to permit growth of adequate grass cover for soil protection by poisoning, rotary-mowing, shredding, clipping, or hand grubbing. Costs will be shared for each treatment, but not in excess of three treatments during the year, done according to accepted practices. Receipts or invoices showing purchase of poisons used or of labor employed in grubbing, clipping, shredding, or mowing will be required by checkers as evidence of cost. Analysis of poisons will also be required. Competitive shrubs eligible under this practice are as described in University of Hawaii Extension Bulletin 62 and DAC Regulation NW–10 on noxious weeds, available at the State Office.

Maximum Federal cost-share. (a) 50 percent of the average cost of State Office approved chemicals, but not in excess of $1 per acre per application.

(b) 50 percent of the cost of grubbing labor, but not in excess of $1.50 per acre per treatment.

(c) 50 percent of the cost of rotary-mowing, shredding, or clipping, but not in excess of $1 per acre per each operation.

§ 1105.1050 Practice B–5: Constructing wells for livestock water.

Purpose is to protect established vegetative cover through proper distribution of livestock, rotation grazing, or better grassland management, or to make practicable the utilization of the land for vegetative cover. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts or invoices showing payment for labor and/or purchase of materials used will be required by checkers. Pumping equipment must be installed for wells, except artesian wells, and adequate storage facilities must be provided. Cost-sharing will be allowed only for constructing or deepening wells. Cost-sharing will be allowed for water storage facilities under § 1105.1052 (practice B–7). No cost-sharing will be allowed for wells constructed primarily for the use of headquarters.

Maximum Federal cost-share. 50 percent of the cost of construction, excluding pumping equipment.

§ 1105.1051 Practice B–6: Developing seeps or springs for livestock water.

Purpose is to protect established vegetative cover through proper distribution of livestock, rotation grazing, or better grassland management, or to make practicable the utilization of the land for vegetative cover. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts or invoices showing payment for labor and/or purchase of materials used will be required by checkers. Adequate storage facilities must be provided. Cost-sharing will be allowed for water storage facilities under provisions of § 1105.1052 (practice B–7). No cost-sharing will be allowed for developing seeps or springs primarily for the use of headquarters.

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

§ 1105.1052 Practice B–7: Constructing or sealing dams, pits, tanks, or ponds for livestock water, including the enlargement of inadequate structures.

The development must contribute to a better distribution of grazing or better

pasture management or make practicable the utilization of the land for vegetative cover. This practice is applicable only to livestock enterprises on lands established for grazing. Receipts or invoices showing purchase of material used in construction will be required by checkers as evidence of cost. Earth fills must be constructed in accordance with supplemental specifications for "Small Earth Storage Dams," provided on request by the SCS or ASC offices.

Maximum Federal cost-share. (a) 50 percent of the cost, but not in excess of $0.40 per cubic yard of earth material moved.

(b) $14 per cubic yard of concrete used.

(c) $8.50 per cubic yard of rubble masonry used.

(d) 50 percent of the cost of materials, other than concrete and rubble masonry, including soil sealing and including installation costs.

§ 1105.1053 Practice B–8: Installation of pipelines for livestock water.

Purpose is to obtain proper distribution of livestock and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover or to make practicable the utilization of the land for vegetative cover. Installations in corrals, feed lots, and holding pens are not eligible. Receipts or invoices showing purchase of pipe used will be required to determine cost. High density plastic pipe is acceptable if it complies with "Specifications for plastic irrigation pipelines" available on request at ASC or SCS offices.

Maximum Federal cost-share. 35 percent of the average cost of pipe at the farm, except that the cost-share for pipe in excess of 2 inches in diameter may not exceed the cost which may be shared for 2-inch pipe.

§ 1105.1054 Practice B–9: Construction of permanent fences.

Purpose is to obtain better distribution and control of livestock grazing on range or pasture land and to promote proper management for protection of established forage resources. No cost may be shared for the maintenance or repair of existing fences or for the construction of property boundary fences including road fences. Required fencing of State forest reserve land is not eligible. Any fencing necessary to the working of cattle (including pens, corrals, and feed lots) is ineligible. Permanent electric fences of acceptable quality are eligible. Receipts or invoices showing purchase of materials will be required to determine cost. Recommendations for construction of acceptable fences are on file in the State Office.

Maximum Federal cost-share. (a) 35 percent of the average cost at the farm of posts, wire, poles, lumber, staples, or other similar fencing materials used.

(b) $0.25 per linear foot of rock wall, minimum dimensions of which shall be: Height, 4 feet; base width, 36 inches; top width, 24 inches.

§ 1105.1055 Practice B–10: Improvement of a stand of forest trees on farmland.

Federal cost-sharing may be allowed for any of the following measures: (a) Thinning, (b) pruning crop trees, (c) release of desirable tree seedlings by removing or killing competing and undesirable vegetation, (d) site preparation for natural reseeding, (e) fencing, and (f) erosion control measures on logging roads and trails. The area must be protected from fire. Where seedlings are present or needed, the area must be protected from grazing. Federal cost-sharing for site preparation will be limited to areas which have a sufficient number of desirable seed trees for natural reseeding, which will not restock unless brush, dense litter, and other material on the forest soil is broken up or removed so that soil is exposed, and on which the seed trees will be left until the area is restocked. The practice must be carried out in accordance with technical forestry standards of the Forestry Division, State Department of Agriculture and Conservation. Federal cost-sharing for fencing shall be limited to permanent fences needed to protect the area from grazing, excluding property boundary fences and road fences. For recommendations concerning fence building see those issued for § 1105.1054 (practice B–9). Receipts, invoices, or other evidence of cost is required.

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

§ 1105.1057 Practice C–1: Initial establishment of a protective sod lining in waterways to dispose of excess water without causing erosion.

This practice is applicable to waterways built or reshaped in the program year for use in removing excess water from farmland that is contoured, terraced, and/or trash-mulched. Sod lining of waterways must be dense enough to prevent soil cutting before cost-sharing may be allowed. Maximum width of waterway for which cost-sharing will be approved is 50 feet. Detailed specifications on species, seeding rates, sprig spacings, soil preparation, and irrigation are contained in Technical Standards for § 1105.1072 (practice D–2) and § 1105.1042 (practice A–2) on file in the State Office. Soil moving under this practice is eligible for cost-sharing only if it qualifies under specifications for § 1105.1061 (practice C–5). Needed liming materials must be applied; cost-sharing may be authorized under § 1105.1043 (practice A–4).

Maximum Federal cost-share. (a) $3.50 per 1,000 square feet of surface established to cover by seeding, sodding, or sprigging.

(b) 50 percent of the cost at the farm of the minimum needed application of approved commercial fertilizers, including nitrogen (as determined by soil test), for establishment of the cover. (Receipts, invoices, or other evidence of cost is required.)

(c) 50 percent of cost of earth moving, but not in excess of $0.40 per cubic yard moved.

§ 1105.1058 Practice C–2: Initial establishment of permanent vegetation as protection against erosion.

Federal cost-sharing will be limited to the establishment of permanent vegetation on gullies, dams, dikes, levees, ditchbanks, farm roadsides, filter strips, and field borders. Slopes of fills and cuts must not exceed natural angle of repose for the soil. Vegetative cover must be dense enough to prevent soil cutting. Detailed recommendations on species, seeding rates, spring spacings, soil preparation, and irrigation are contained in Technical Standards for § 1105.1072 (practice D–2) and § 1105.1042 (practice A–2) on file in the State Office. Soil moving under this practice is eligible for cost-sharing only if it qualifies under § 1105.1061 (practice C–5). Receipts, invoices, or other evidence of cost is required. Needed liming materials must be applied; cost-sharing may be authorized under § 1105.1043 (practice A–4).

Maximum Federal cost-share. (a) 50 percent of the cost of seeding, sodding, or sprigging.

(b) 50 percent of the cost at the farm of the minimum needed application of approved commercial fertilizers, including nitrogen (as determined by soil test), for establishment of the cover.

§ 1105.1059 Practice C–3: Initial planting of orchards on the contour to help prevent erosion.

This practice is to conserve water and reduce erosion from irrigation or storm water, with orchard rows running on nonerosive grades across the main slope. Cost-sharing will be allowed for planting orchards on the contour on land having more than 2 percent slope. The land must be protected during the rainfall season by cover crops, stubble mulch, or mulch and terraces or diversion ditches. Cultivation at other times for weed control or soil tilth must be on the contour.

Maximum Federal cost-share. $7.50 per acre.

§ 1105.1060 Practice C–4: Constructing terraces to detain or control the flow of runoff water and check soil erosion on sloping farmland.

Cost-sharing will be allowed provided the structures are properly laid out and constructed in accordance with specifications contained in Technical Standards on file in the State Office. If the land terraced is planted to clean-tilled crops, the crop rows should follow contour or suitable grade lines. This practice is applicable to average slopes, up to 12 percent for channel terraces, up to 25 percent for ditch terraces, and up to 50 percent for bench terraces. Necessary protective outlets must be provided.

Maximum Federal cost-share. (a) 50 percent of the cost, but not in excess of $0.30 per cubic yard of earth moved in terrain permitting normal operation of tillage equipment.

(b) 50 percent of the cost, but not in excess of $0.40 per cubic yard of earth moved in other terrain (rocky, broken, steep, or with exposed substratum).

§ 1105.1061 Practice C–5: Constructing interception ditches and/or outlet channels.

Practice is for disposing of, diverting, or collecting water to control erosion or for impounding livestock water to obtain proper distribution of livestock and encourage rotation grazing and better land management as a means of protecting established vegetative cover, and for irrigation. This practice does not apply to control of infield surface water runoff

on farmland. (See § 1105.1060 (practice C–4).) Channels having an erosive grade must be protected against erosion damage by adequate sod (see § 1105.1057 (practice C–1)) or other lining. Outlets must be protected to discharge water without gullying. Cost-sharing will be allowed only once and that for the year of construction. Specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 50 percent of the cost (including dynamiting), but not in excess of $0.40 per cubic yard of material moved.

(b) 50 percent of the cost of materials and labor for clearing rocks and trees from minimum right-of-way.

§ 1105.1062 Practice C–6: Constructing erosion control dams, pits, or ponds to prevent or heal the gullying of farmland or reduce runoff of water.

Receipts or invoices showing purchase of material will be required as evidence of accomplishment under paragraph (d) of this section. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 75 percent of the cost, but not in excess of $0.40 per cubic yard of earth moved in the construction of dams, wings, and walls.

(b) $20 per cubic yard of concrete used.

(c) $13 per cubic yard of rubble masonry used.

(d) 75 percent of the average cost of pipe and/or flume material delivered to the farm.

(e) $3 per cubic yard of rock used, for rock or rock-and-brush dams.

§ 1105.1063 Practice C–7: Building structures for the protection of outlets and water channels that dispose of excess water.

Practice includes channel lining, chutes, drop spillways, pipe drops, drop inlets, or similar structures. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts or invoices showing purchase of materials will be required as evidence of material used. Federal cost-sharing will not be allowed for forms or repair of existing structures.

Maximum Federal cost-share. 75 percent of the cost of material used.

§ 1105.1064 Practice C–8: Streambank or shore protection, channel clearance, enlargement or realinement, or construction of floodways, levees, or dikes, to prevent erosion or flood damage to farmland.

This practice shall not be approved in cases where there is any likelihood that it will create an erosion or flood hazard to other adjacent land, or where its primary purpose is to bring new land into agricultural production. Detailed specifications are contained in Technical Standards on file in the State Office. No cost will be shared for maintenance or repair of existing structures. Receipts, invoices, or other evidence of cost is required.

Maximum Federal cost-share. 75 percent of the cost of construction and protective measures.

§ 1105.1065 Practice C–9: Construction or enlargement of permanent open drainage systems.

Purpose is to dispose of excess water on farmland under cultivation or on pastureland. No cost will be shared for material moved in cleaning or maintaining a ditch, or for structures installed for crossings, or for other structures primarily for the convenience of the farm operator. Receipts or invoices showing purchase of materials and records of labor employed and soil moved will be required as evidence of construction costs. No cost-sharing will be allowed for ditches, the primary purpose of which is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 50 percent of the cost (including dynamiting), but not in excess of $0.40 per cubic yard of material moved.

(b) $14 per cubic yard of concrete used.

(c) $8.50 per cubic yard of rubble masonry used.

(d) 50 percent of the average cost of material used, other than concrete and rubble masonry.

(e) 50 percent of the cost of initial clearing of brush and/or trees from the minimum right-of-way.

§ 1105.1066 Practice C–10: Installing underground drainage systems to dispose of excess water.

No Federal cost-sharing will be allowed for systems, the primary purpose of which is to bring new land into agricultural production. This practice is not applicable to land other than that devoted to the production of cultivated crops or crops normally seeded to hay or pasture in the area during at least 2 of the 5 years preceding that in which the practice is applied: *Provided, however,* That upon a showing by a farmer applicant for this practice that the land on which the practice is to be applied was in cultivated crops, tame hay, or seeded pasture 2 years out of 10 years preceding the application applied for, he may be allowed cost-shares as to such land. The installation of this practice on eligible land shall not be ineligible for cost-shares because its use results in incidental drainage on ineligible land. In the installation of drainage systems, due consideration shall be given to the maintenance of wildlife habitat. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts, invoices, or other evidence of cost is required.

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

§ 1105.1067 Practice C–11: Shaping or land grading to permit effective surface drainage.

No Federal cost-sharing will be allowed for shaping or grading performed through farming operations connected with land preparation for planting or cultivating crops. No Federal cost-sharing will be allowed for shaping or land grading on land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts, invoices, or other evidence of cost is required.

Maximum Federal cost-share. 50 percent of the cost of shaping or grading.

§ 1105.1068 Practice C–12: Reorganizing irrigation systems to conserve water and prevent erosion.

The reorganization (a change for the better in style or method of conveying water to and in the fields) practice must be carried out in accordance with a reorganization plan approved by the responsible technician. No Federal cost-share will be allowed for cleaning a ditch or for structures installed for crossings, or for other structures primarily for the convenience of the farm operator, or for portable pipe. No Federal cost-share will be allowed for reorganizing an irrigation system if the primary purpose of the reorganization is to bring additional land under irrigation, or for reorganizing a system which was not in use during at least 2 of the last 5 years. No costs will be allowed for repairs or replacement of existing structures. Receipts, records or invoices showing purchase of materials or hiring of labor or equipment will be required as evidence of costs. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 50 percent of the cost, but not in excess of $0.40 per cubic yard of earth material moved in the construction or enlargement of permanent ditches, dikes, or laterals.

(b) 35 percent of the cost of material used in permanent structures, other than concrete and rubble masonry, but excluding forms.

(c) $14 per cubic yard of concrete used.

(d) $8.50 per cubic yard of rubble masonry used.

§ 1105.1069 Practice C–13: Leveling or grading land for more efficient use of irrigation water and to prevent erosion.

No Federal cost-sharing will be allowed for floating or restoration of grade. However, the leveling operation may be completed over a period of more than one program year on a component basis where the size and cut of fills is such that a heavy leveling operation will be needed following settlement of the original fills. No Federal cost-sharing will be allowed for leveling land if the primary purpose of the leveling is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years. Leveling or grading must be carried out in accordance with a plan approved by the responsible SCS technician. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts or invoices showing payment of

labor and equipment will be required by checkers.

Maximum Federal cost-share. 50 percent of the cost of earth moving, but not over $0.20 per cubic yard of earth moved and not in excess of $60 per acre graded.

§ 1105.1070 Practice C–14: Constructing or sealing dams, pits, tanks, or ponds for irrigation water.

The purpose of this practice is to conserve agricultural water or to provide water necessary for the conservation of soil resources. No cost-sharing will be allowed for material moved in cleaning or maintaining a reservoir, or for dams, pits, tanks, or ponds, the primary purpose of which is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years. Receipts or invoices showing purchase of materials used will be required as evidence of cost. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 50 percent of the cost, but not in excess of $0.40 per cubic yard of earth material moved.

(b) $14 per cubic yard of concrete used.

(c) $8.50 per cubic yard of rubble masonry used.

(d) 50 percent of the cost of materials, other than concrete and rubble masonry, including soil sealant and installation costs.

§ 1105.1071 Practice C–15: Lining ditches of an existing farm irrigation system to conserve water and prevent erosion.

The work must be carried out in accordance with a plan approved by the responsible SCS technician. Receipts or invoices showing purchase of materials used will be required as evidence of installation costs. No cost-sharing will be allowed for lining ditches in an irrigation system if the primary purpose of the ditch lining is to bring additional land under irrigation, or for lining a ditch system which was not in use during at least 2 of the last 5 years. No cost-sharing will be allowed for repairs or replacements of existing structures. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 50 percent of the cost of approved material used, other than concrete and rubble masonry, including soil sealant and installation costs.

(b) $14 per cubic yard of concrete used.

(c) $8.50 per cubic yard of rubble masonry used.

§ 1105.1072 Practice D–2: Establishment of vegetative cover for temporary protection of farm soil from erosion.

A good stand and growth of leguminous and/or nonleguminous crops must be obtained and left on the land or turned under as green manure. This practice is applicable to all orchardland. Pasturing consistent with good management is permitted but none of the growth may be harvested for hay or seed, except that the State Office now may authorize harvesting for hay, silage, or chopped forage in areas where it is determined serious feed shortage exists due to adverse weather and the growth harvested is needed for use on farms in the area. Volunteer stands will not qualify for cost-sharing. Receipts or invoices showing purchase of seed or records of collecting will be required as evidence of seed used. Receipts, invoices, or other evidence of cost of fertilizer used is required. Detailed recommendations concerning acceptable species, rates of seeding, locations and methods of planting are contained in Technical Standards available on request at the State Office.

Maximum Federal cost-share. (a) 75 percent of the cost of seeds, sprigs, or stools at the farm, but not in excess of $7.50 per acre of area planted.

(b) 60 percent of the cost of minimum needed application of commercial fertilizer (as determined by soil test), but not in excess of $15 per acre of area fertilized.

§ 1105.1074 Practice E–2: Initial establishment of contour operations on nonterraced unirrigated land to protect soil from wind or water erosion.

All cultural operations must be performed as nearly as practicable on the contour. Detailed specifications are contained in Technical Standards on file in the State Office. Federal cost-sharing may be authorized for removing stone walls or hedgerows where such removal is necessary to the establishment of effective contour operations.

Maximum Federal cost-share. (a) $5 per acre established in contour farming during the year.

(b) 50 percent of the cost of removing stone walls or hedgerows. (Evidence of cost is required.)

§ 1105.1076 Practice F–2(A): Installation of facilities for sprinkler irrigation of permanent pasture.

Purpose is to develop forage resources to encourage rotation grazing and better pasture management for protection of all grazing land in the farm against overgrazing and erosion. Installation of sprinkler irrigation facilities must be solely for irrigation of permanent pasture or area being established in permanent pasture. The installation must be in accordance with a written plan approved by the responsible SCS technician. Detailed specifications are contained in Technical Standards on file in the State Office. Receipts, invoices, or other evidence of cost is required.

Maximum Federal cost-share. 35 percent of the cost at the farm of plain, gated, or perforated pipe, sprinklers, and fittings, but not in excess of $100 per acre.

§ 1105.1077 Practice F–2(B): Initial application of organic mulch material.

Applicable to any cropland, orchardland, or eroded pasture areas for soil protection and moisture conservation. Organic material must be of a fibrous nature and shredded, chopped, or crushed. Material such as sugarcane bagasse, cane leaf trash, pineapple trash, tree fern stumps, coarse grasses, coffee husks, sawdust, and wood shavings or chips, as well as macadamia nut husks and shells, will be eligible. At time of application, finely shredded material like bagasse and sawdust should lie at least 2 inches thick, medium fine material like coffee husks and wood shavings should lie at least 3 inches thick, and coarse material like pineapple trash and cane leaf trash should lie at least 6 inches thick. Receipts or invoices showing purchase of materials and cost of transportation will be required by checkers as evidence of compliance. For protection of mulch cover from damage by flowing water, terraces and/or diversion ditches must be installed where necessary and feasible.

Maximum Federal cost-share. (a) 50 percent of the cost of organic material at the farm, but not in excess of $50 per acre treated with materials secured outside the farm from sources not more than 30 miles distant by most direct highway route.

(b) $2.50 per acre treated with crop residue material produced on the farm (restricted to first time use on any farm).

(c) 50 percent of the cost of acceptable material grown for the purpose on the farm, but not in excess of $50 per acre.

(d) 50 percent of the cost of organic material at the farm, but not in excess of $75 per acre treated with materials secured outside the farm from sources more than 30 miles distant by most direct highway route.

§ 1105.1078 Practice F–2(C): Construction of permanent catchment areas for accumulating water.

The practice is to be used to obtain proper distribution of livestock and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover or to make practicable the utilization of the land for vegetative cover. No cost will be shared if the water supplied is primarily for irrigation or domestic purposes. The practice is not applicable for corrals, feed lots, and holding pens alone. Receipts or invoices showing purchase of materials used will be required to determine cost. Detailed specifications are contained in Technical Standards on file in the State Office.

Maximum Federal cost-share. (a) 35 percent of the cost of material used, other than concrete and rubble masonry.

(b) $12 per cubic yard of concrete used.

(c) $7 per cubic yard of rubble masonry used.

§ 1105.1079 Practice F–2(D): Construction of vertical drains to dispose of excess water on farmland under cultivation or on pastureland.

No cost will be shared for cleaning or maintaining established vertical drain structures. Receipts or invoices showing purchase of materials and records of labor employed are required as evidence of cost of construction. No cost will be allowed for vertical drains, the primary purpose of which is to bring into agricultural production land which was not devoted to the production of cultivated crops or crops normally seeded for hay or pasture in the area during at least 2 of the last 5 years.

Maximum Federal cost-share. 50 percent of the cost of materials (including dynamite) and labor used in construction, but not over $0.40 per cubic yard of earth material moved.

§ 1105.1080 Practice F–2(E): Restoring volcano damaged farmlands to immediate agricultural use.

This practice is applicable only to active farmlands with production ability

impaired by (a) heavy deposits of volcanic cinders, or (b) fire and/or cinder damaged crops left standing in the fields.

Maximum Federal cost-share. (a) 50 percent of the cost of removing volcanic cinder deposits which are seriously impeding resumption of cultural operations, but not in excess of $100 per acre cleared.

(b) 50 percent of the cost of clearing useless crop residue impeding resumption of cultural operations, but not in excess of (1) $150 per acre cleared if work must be done by hand, or (2) $75 per acre cleared if done by machine.

Done at Washington, D.C., this 14th day of September 1960.

TRUE D. MORSE,
Under Secretary.

[F.R. Doc. 60-8733; Filed, Sept. 19, 1960; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

PART 27—IMPORTED PRODUCTS

Eligibility of Foreign Countries for Importation of Product Into U.S.

Pursuant to the authority conferred by section 306 of the Tariff Act of June 17, 1930 (19 U.S.C. 1306), § 27.2(b) in Part 27 of Title 9, Code of Federal Regulations, as amended, is hereby further amended to read as follows:

§ 27.2 Eligibility of foreign countries for importation of product into the United States.

* * * * *

(b) It has been determined that product from the following countries, covered by foreign meat inspection certificates of the country of origin as required by § 27.6, except fresh, chilled or frozen or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest or of foot-and-mouth disease exists as provided in Part 94 of this chapter, is eligible for importation into the United States after inspection and marking as required by the applicable provisions of Parts 1 to 29 of this subchapter.

Argentina.
Australia.
Austria.
Belgium.
Brazil.
Canada.
Costa Rica.
Czechoslovakia.
Denmark.
Dominican Republic.
England and Wales.
Finland.
France.
Germany (Federal Republic).
Honduras.
Iceland.
Ireland (Erie).
Italy.
Luxembourg.
Madagascar.
Mexico.
Netherlands.
New Zealand.
Nicaragua.
Northern Ireland.
Norway.
Panama.
Paraguay.
Poland.
Scotland.
Spain.
Sweden.
Switzerland.
Uruguay.
Venezuela.
Yugoslavia.

The foregoing amendment removes Cuba from the list of those countries permitted to export meat products to the United States. This action is taken to insure the importation of clean, wholesome meat products. Meat products may be imported into the United States only from those countries found to have a national meat inspection program comparable to the Federal meat inspection program in the United States. Following a recent survey of actual operation practices in Cuba, it was reported to the Meat Inspection Division that the national meat inspection program of Cuba was not being administered at an acceptable level of sanitation to insure that only clean, wholesome meat products would be exported to this country. In order to provide the necessary protection to the consumer in the United States, the proposed amendment should be made effective without delay. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure on the amendment would be impracticable and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(34 Stat. 1264, sec. 306, 46 Stat. 689; 19 U.S.C. 1306, 21 U.S.C. 89; 19 F.R. 74, as amended)

The amendment shall become effective on September 23, 1960.

Done at Washington, D.C., this 14th day of September 1960.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 60-8736; Filed, Sept. 19, 1960; 8:51 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Capsules Crystalline Penicillin G

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500, 25 F.R. 5611), the regulations for certification of penicillin and penicillin-containing drugs (21 CFR 146a.99) are amended as indicated below:

In § 146a.99 *Capsules crystalline penicillin G* * * *, paragraph (a) *Standards of identity* * * * is amended by changing the second sentence to read as follows: "The potency of each capsule is not less than 50,000 units. The moisture content is not more than 1.5 percent unless the person who requests certification has submitted information adequate to prove that his drug is stable for that period of time covered by its expiration date when it has a moisture content of more than 1.5 percent; but in no case shall its moisture content be more than 4.0 percent."

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the stability of the crystalline penicillin G capsules affected by this order is assured under the provisions prescribed thereby and since the amendment has been drawn in collaboration with interested members of the affected industry.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: September 13, 1960.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 60-8720; Filed, Sept. 19, 1960; 8:48 a.m.]

Title 25—INDIANS

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

SUBCHAPTER O—RIGHTS OF WAY—ROADS

PART 163—ESTABLISHMENT OF ROADLESS AND WILD AREAS ON INDIAN RESERVATIONS

Elimination of 105,000 Acres on Yakima Reservation Known as Goat Rocks Roadless Area, 130,000 Acres on Fort Apache Reservation Known as Mt. Thomas Roadless Area, and 48,000 Acres on Yakima Reservation Known as Mount Adams Wild Area

On page 6362 of the FEDERAL REGISTER of July 7, 1960, there was published a notice of intention to amend §§ 163.1 and 163.2, Title 25 of the Code of Federal Regulations. The purpose of this amendment is to exclude the 105,000 acres on Yakima Reservation known as the Goat Rocks Roadless Area, and the 130,000 acres on the Fort Apache Reservation known as the Mt. Thomas Roadless Area from the list of roadless areas heretofore set forth in § 163.1 of Title 25, CFR; also the 48,000 acres on Yakima Reservation known as the Mount Adams Wild Area is proposed to be excluded from the list of wild areas heretofore set forth in § 163.2 of Title 25, CFR. The Tribes have requested the elimination of these areas to facilitate the economic development of the areas.

Interested persons were given an opportunity to submit their views, data, and arguments concerning the proposed amendment within 30 days from the date of publication of the notice. No written communications pertaining to the

proposed amendment were received within the period specified.

The proposed amendment to the regulations is hereby adopted, without change, and is set forth below. This amendment is effective 30 days after publication in the FEDERAL REGISTER.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 13, 1960.

1. Section 163.1 is amended to provide for the elimination of the Mt. Thomas and Goat Rocks areas and to read as follows:

§ 163.1 Definition of roadless areas.

The National Resources Board defines a roadless area as one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country and at least 500,000 acres in non-forested country. Under this definition the Secretary of the Interior ordered that the following be established as roadless areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Wind River Mountains.	Shoshone	220,000
Mesa Verde	Consolidated Ute	115,000

The boundaries of these areas are indicated in the appendix to this part.[1]

§ 163.2 [Revocation]

2. Section 163.2 is revoked.

3. Section 163.3 is amended to provide for the elimination of the words "wild areas" wherever they appear and to read as follows:

§ 163.3 Roads prohibited.

(a) Within the boundaries of these officially designated roadless areas it will be the policy of the Interior Department to refuse consent to the construction or establishment of any routes passable to motor transportation, including in this restriction highways, roads, truck trails, work roads, and all other types of way constructed to make possible the passage of motor vehicles either for transportation of people or for the hauling of supplies and equipment, unless the requirements of fire protection, commercial use for the Indians' benefit or actual needs of the Indians clearly demand otherwise.

(b) Foot trails and horse trails are not barred. Superintendents of reservations on which roadless areas have been established will be held strictly accountable for seeing that these areas are maintained in a roadless condition. Elimination of any areas or parts of areas from the restriction of this order will be made only upon a written showing of an actual and controlling need.

CROSS REFERENCE: For rights-of-way for highways over Indian lands, see Part 161 of this chapter.

[F.R. Doc. 60-8705; Filed, Sept. 19, 1960; 8:46 a.m.]

[1] The appendix to this part is not codified. It appears, however, at 3 F.R. 709-711, Mar. 22, 1938.

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 2—GENERAL REGULATIONS

Adjustment of Claims Under Federal Tort Claims Act To Reflect Increase in Amount Subject to Administrative Settlement; Amendment

In order to reflect the increase in the amount subject to administrative settlement regarding claims under the Federal Tort Claims Act provided by the Act of September 8, 1959 (Public Law 86-238, 73 Stat. 471), 29 CFR 2.8 setting forth the procedure for the handling of such claims is hereby amended by deleting reference contained therein to the amount of $1,000 and substituting in lieu thereof the amount of $2,500. In addition, a minor procedural change is made to permit the presentation of claims to the branch office of the Solicitor, as well as to the regional offices and national office of the Solicitor.

As so amended, 29 CFR 2.8 reads as follows:

§ 2.8 Claims under the Federal Tort Claims Act for loss of or damage to property or for personal injury or death.

Pursuant to 28 U.S.C. 2672, any claim under the Federal Tort Claims Act for loss of or damage to property or on account of personal injury or death, in an amount of $2,500 or less, caused by the negligent or wrongful act or omission of any employee of the Department of Labor while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant for such damage, loss, injury, or death in accordance with the law of the place where the act or omission occurred may be presented in writing to the Solicitor of Labor, United States Department of Labor, Washington 25, D.C., or to any regional or branch office of the Solicitor, by the claimant in his own right or through an attorney at any time within 1 year after such claim has accrued. If the claim is presented through an attorney, such presentation should be accompanied by duly authenticated powers of attorney. Each claim presented should include a sworn detailed statement of the facts and such affidavits, vouchers, bills, and other documents as the claimant deems appropriate for the proper determination of his claim. If, after investigation, the Solicitor determines on the basis of all the evidence that compensation is due the claimant under the Federal Tort Claims Act, the amount so found, together with such reasonable attorney's fees as may be allowed, will be paid by the Secretary of Labor.

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

Signed at Washington, D.C., this 7th day of September 1960.

JAMES C. MITCHELL,
Secretary of Labor.

[F.R. Doc. 60-8708; Filed, Sept. 19, 1960; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 205—DUMPING GROUNDS REGULATIONS

Bath Creek, N.C.; Chesapeake Bay, Maryland

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended revoking paragraph (g) (5) governing the operation of the North Carolina State Highway and Public Works Commission bridge at Bath, North Carolina, effective on publication in the FEDERAL REGISTER since the bridge has been replaced by a fixed bridge, as follows:

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

* * * * *

(g) *Waterways discharging into the Atlantic Ocean between Chesapeake Bay and Charleston.* * * *

(5) [Revoked]

[Regs., September 1, 1960, 285/91 (Bath Creek, N.C.)-ENGCW-O] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 4 of the River and Harbor Act of March 3, 1905 (33 Stat. 1147; 33 U.S.C. 419), § 205.20 is hereby amended by enlarging the dumping grounds in Chesapeake Bay off Kent Island, Maryland, and revising paragraph (b) (1) and (4) of the regulations to be effective on and after publication in the FEDERAL REGISTER in view of the urgent need for the enlarged area, as follows:

§ 205.20 Chesapeake Bay off Kent Island, Md.

(a) *The dumping grounds.* The waters of Chesapeake Bay within an area west of the north end of Kent Island bounded as follows: Beginning at latitude 38°59'43", longitude 76°21'58"; thence to latitude 39°00'44", longitude 76°21'34"; thence to latitude 39°00'42", longitude 76°21'23"; thence to latitude 39°03'30", longitude 76°20'15"; thence to latitude 39°03'33", longitude 76°19'35"; thence to latitude 38°59'32", longitude 76°21'12"; and thence to the point of beginning.

(b) *The regulations.* (1) Materials shall be dumped only in areas more than 40 feet deep at mean low water, and

only at such places indicated by buoys within the dumping grounds as may be designated by the District Engineer, U.S. Army Engineer District, Baltimore.

* * * * *

(4) Any deposits made above the plane of 40 feet below mean low water shall be leveled to that plane by the contractor or responsible person at his own expense within the time specified by t he District Engineer, and failure to do so shall constitute a violation of this section.

* * * * *

[Regs., September 1, 1960, 285/91–ENGCW–O] (Sec. 4, 33 Stat. 1147; 33 U.S.C. 419)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60–8697; Filed, Sept. 19, 1960; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2201]

[Montana 022071]

MONTANA

Opening Lands Under Section 24 of Federal Power Act (From Power Site Reserve No. 184 and Power Site Classification No. 301)

1. In DA–143–Montana, the Federal Power Commission determined that the value of the following-described lands would not be injured or destroyed for purposes of power development by entry, location, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act:

(Power Site Reserve No. 184)

MONTANA PRINCIPAL MERIDIAN

T. 11 S., R. 1 E.,
Sec. 14, lots 2, 3, 6, 7, SW¼NW¼, and SE¼SW¼;
Sec. 15, NE¼NE¼;
Sec. 23, lots 2 and 3;
Sec. 24, lots 3, 4, 7, and 8.
T. 11 S., R. 2 E.,
Sec. 25, lot 1;
Sec. 34, SW¼NW¼;
Sec. 35, lots 1, 3, 5, and 7;
Sec. 36, lots 1 to 12, incl.

Aggregating 860.62 acres.

2. In DA–152–Montana, the Commission made a similar determination, respecting the following-described lands:

(Power Site Classification No. 301)

T. 23 N., R. 22 E.,
Sec. 27, NE¼SW¼ and NW¼SE¼.

Containing 80 acres.

3. All the lands except those in sections 24 and 27, are a part of the Beaverhead National Forest.

4. Subject to any valid existing rights, and the requirements of applicable law, the lands are hereby opened to filing of applications, selections and locations as follows subject to the provisions of section 24 of the Federal Power Act (the national forest lands being opened to such forms of appropriation as may by law be made of national forest lands).

5. Until 10:00 a.m. on March 16, 1961, the State of Montana shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and the regulations in 43 CFR. During this period the State shall also have a preference right to apply for the reservation to it or to any of its political subdivisions of any of the lands required for rights-of-way or materials sites in accordance with the provisions of section 24 of the Federal Power Act of June 10, 1920 (62 Stat. 275; 16 U.S.C. 818), as amended.

6. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs, and shall be subject to the provisions of section 24 of the Federal Power Act:

a. 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 other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

b. All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on October 20, 1960, 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.

7. The lands have been open to applications and offers under the mineral leasing laws and to location under the United State mining laws.

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

FRED G. AANDAHL,
Assistant Secretary of the Interior.

SEPTEMBER 14, 1960.

[F.R. Doc. 60–8706; Filed, Sept. 19, 1960; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 7—LIST OF FORMS, PART II INTERSTATE COMMERCE ACT

Transfers of Rights to Operate as a Motor Carrier

At a session of the Interstate Commerce Commission, Division 4 held at its office in Washington, D.C., on the 9th day of August A.D. 1960.

It appearing, that the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce have been revised by order entered concurrently herewith, and that revision of Form BMC 76 (Revised), used in filing applications under sections 212(b) and 211 of the Interstate Commerce Act, is necessary and desirable for the proper administration of such proceedings:

It is ordered, That applications filed in proceedings under sections 212(b) and 211 of the Interstate Commerce Act shall be in the form of, and contain the information called for in, the application designated Form BF 200 (49 CFR 7.200), which is attached hereto and made a part hereof.[1]

It is further ordered, That 49 CFR Part 7, be, and it is hereby, amended by cancelling § 7.76 and by adding § 7.200 *BF 200,* to read as follows:

§ 7.200 BF 200.

Applications filed in proceedings under sections 212(b) and 211 of the Interstate Commerce Act (1) for transfer or lease of motor common and contract carrier operating rights and (2) for transfer of brokers' licenses or approval of a change in control of a company holding a broker's license.

It is further ordered, That the order of January 5, 1951 (16 F.R. 5061), pertaining to Form BMC 76 (Revised) be, and it is hereby, vacated, and Form BMC 76 (Revised) (49 CFR 7.76) be, and it is hereby, cancelled.

It is further ordered, That this order shall be effective on November 1, 1960.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

(Secs. 204, 206, 209, 211 and 212(b), 49 Stat. 546, 551, 552, 554 and 555, as amended; 49 U.S.C. 304, 306, 309, 311 and 312)

By the Commission, Division 4.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60–8718; Filed, Sept. 19, 1960; 8:48 a.m.]

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[No. 32339]

PART 179—TRANSFERS OF OPERATING RIGHTS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D.C., on the 9th day of August A.D. 1960.

It appearing that on February 25, 1960, a notice of proposed rule-making was published in the FEDERAL REGISTER (25 F.R. 1639) for the purpose of revising the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce, prescribed under section 212

[1] Filed as part of the original document.

(b) of the Interstate Commerce Act (49 CFR 179.1–179.5), as therein set forth, and providing that interested persons could submit written data, views, and arguments in connection therewith on or before May 1, 1960;

It further appearing that written data, views and arguments were submitted by Mr. Jacob Polin of Bala-Cynwyd, Pa., and by Aero Mayflower Transit Company, Inc., of Indianapolis, Ind., questioning the proposed new rules 179.5(a) and 179.5(b), and suggesting certain revisions thereof, including certain procedural changes;

And it further appearing that careful consideration has been accorded to the views and arguments submitted, and they are found to be without merit.

It is ordered, That 49 CFR Part 179 be, and it is hereby amended by deleting in their entirety §§ 179.1 through 179.6 and substituting in lieu thereof §§ 179.1 through 179.7 as set forth below.

It is further ordered, That this order shall be effective on November 1, 1960.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 4.

[SEAL] HAROLD D. McCOY, *Secretary.*

Sec.
179.1 Definitions.
179.2 Applications.
179.3 General bases for approval.
179.4 Notice of approval; petitions for reconsideration or oral hearing.
179.5 General bases for disapproval.
179.6 Operations by fiduciaries.
179.7 Orders of court.

AUTHORITY: §§ 179.1 to 179.7, issued under secs. 204, 206, 209, 211 and 212(b), 49 Stat. 546, 551, 552, 554 and 555, as amended; 49 U.S.C. 304, 306, 309, 311 and 312.

§ 179.1 Definitions.

As used in this part the following words and terms are construed to mean:

(a) *Transfer.* All transactions not subject to sections 5 [1] and 210a(b) of the Interstate Commerce Act, whether by purchase, lease, or otherwise, whereby an operating right as a motor carrier arising out of the Interstate Commerce Act is acquired by one person from another. No attempted transfer of any operating right shall be effective prior to approval thereof by the Interstate Commerce Commission as provided in this part. The mere execution of a chattel mortgage, deed of trust, or other similar document, does not constitute a transfer within the meaning of this part, and does not require the approval of the Commission, unless it embraces the conduct of the operation by a person other than the holder of the operating right. A foreclosure of a mortgage or deed of trust or other lien upon such operating right, an execution for the purpose of transferring such operating right in satisfaction of any judgment or claim against the holder thereof, or settlement of an estate involving an operating right, shall not be effective as a transfer without compliance with this part. See §§ 179.6 and 179.7.

(b) *Operating right.* The right to operate as a motor carrier in interstate or foreign commerce over a route or routes or within a specified territory, as authorized by a certificate of public convenience and necessity or a permit issued by this Commission under the provisions of the Interstate Commerce Act, or as authorized by those provisions of said act under which a motor carrier may continue operations pending consideration of its application to the Commission for a certificate or permit. This term does not include temporary authority granted under section 210a(a) of the said act, or the statutory authority to operate under the exemption from the certificate requirements of the act contained in the second proviso of section 206(a)(1).[2]

(c) *Duplicating rights.* Operating rights which authorize the transportation of passengers, or of the same commodities, from and to, or between the same points.

(d) *Control.* The same meaning as that contained in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)).

(e) *Holder.* The record holder of the operating rights, including a lessor.

(f) *Person.* Same as defined in section 203(a)(1) of the Interstate Commerce Act (49 U.S.C. 303(a)(1)).

§ 179.2 Applications.

(a) *Form.* Applications for approval of the transfer of operating rights shall be made in writing to the Commission and shall be in such form and contain such information as the Commission shall prescribe.

(b) *Filing.* An original application properly executed, and four copies thereof, shall be filed with the Commission at Washington, D.C., one copy thereof shall be delivered, in person or by mail, to the District Director in each district of the Bureau of Motor Carriers in which headquarters of the parties signing such application are located, and one copy thereof shall be delivered, in person or by mail, to the board, commission or official (or to the Governor where there is no board, commission or official) having authority to regulate the business of transportation by motor vehicle of each State in which are located the headquarters of applicants. Proof of delivery of copies of the application to the appropriate District Directors and State authorities shall be made a part of the original application filed with the Commission.

(c) *Transfers for limited periods.* Applicants who seek approval of a transfer of operating rights for a limited term, such as a lease, shall attach to their application a written agreement covering the specific period for which the transfer is sought, the rental stated in dollars, the time and method of payment, and a provision that all the operating rights involved shall revert to the transferor at the expiration of said term, or upon a discontinuance of operations thereunder by the transferee at any time prior to the expiration of said term. In case of reversion, the transferor shall give immediate notice thereof in writing, to the Commission.

§ 179.3 General bases for approval.

Except as may be otherwise provided in this part, the proposed transfer described in any such application shall be approved if it is shown that the proposed transaction is not subject to the provisions of section 5 of the Interstate Commerce Act; and that the proposed transferee is fit, willing, and able properly to perform the service authorized by the operating rights sought to be transferred, and to conform to the provisions of the Interstate Commerce Act and the requirements, rules, and regulations of the Commission thereunder. Otherwise, the application shall be denied.

§ 179.4 Notice of approval; petitions for reconsideration and oral hearing.

Prior to their effective dates, synopses of affirmative orders entered pursuant to the rules in this part currently will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17(8) of the Interstate Commerce Act and include a requirement that if a petition is timely filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors and shall cite in all cases, the particular section or sections of this part (Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce), and the arguments based thereon, which petitioner believes warrant a conclusion different from that set forth in the affirmative order. In the absence of citation of the particular section relied upon, the petition may be rejected. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. In this connection, see also § 1.225 of this chapter.

[1] Sec. 5(10) provides as follows:

"Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) where the only parties to the transaction are motor carriers subject to part II (but not including a motor carrier controlled by or affiliated with a carrier as defined in sec. 1(3)), and where the aggregate number of motor vehicles owned, leased, controlled, or operated by such parties, for purposes of transportation subject to part II, does not exceed twenty."

"Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) where the only parties to the transaction are street, suburban, or interurban electric railways none of which is controlled by or under common control with any carrier which is operated as part of a general steam railroad system of transportation."

[2] A transferee of a State certificate of public convenience and necessity, who wishes to engage in operations in interstate or foreign commerce under this exemption, is required to file a properly-executed Form BMC 75 Statement (49 CFR 7.75).

§ 179.5 General bases for disapproval.

(a) *Division of rights.* An application for transfer of part of an operating right as to routes or commodities will be denied if it is found that the partition (1) would create duplicating rights as defined in § 179.1(c): *Provided,* That transfer of regular-route authority to operate between the same points, but over different highways, as is authorized by other operating rights of the transferor not embraced within the application, may be approved upon a satisfactory showing that the transaction will not result in the performance of substantially competitive or duplicative services, (2) would divide the rights at a point other than along clearly defined geographical or political lines, or permit the minute and multiple division of operating rights so that numerous carriers might ultimately operate under rights initially granted as a unit, or would permit the division of radial, irregular-route operating rights, in such a way that the respective parts would be held by two or more carriers under common control; (3) permit the separation of a commodity or commodities from a class of substantially related commodities or from general-commodity authority; or (4) would separate an alternate route or routes, an intermediate point or points, or an off-route point or points, from the route or routes to which it or they are appurtenant. In construing subparagraphs (2) and (3) of this paragraph, the nature of divisions proposed in other applications for transfers of operating authority filed on behalf of the holder, and the action taken thereon, will be considered in passing upon the current application.

(b) *Cessation of operations.* The mere cessation of operations by the holder of an operating right shall not be deemed to require denial of the proposed transfer of such right. If, however, a cessation of operations has occurred, which fact shall be stated in the application, and operations have not been conducted under the considered rights for a substantial period of time, the proposed transfer will be denied unless the holder shows that such discontinuance was caused by circumstances over which he had no control. The Commission may require, in an appropriate case, proof of the nature and extent of operations conducted under the operating right for a period of 6 months preceding the date of the request for such evidence.

(c) *Purpose of transfer.* A proposed transfer of operating rights will not be approved if the Commission finds that the transferee does not intend to, or would not, engage in bona fide motor carrier operations under such operating rights, or if the Commission finds that the transferor acquired such operating rights for the purpose of profiting therefrom and has not engaged in bona fide motor carrier operations under such operating rights.

(d) *Duplicating rights of affiliate.* The Commission will not approve a transfer of operating rights to a person who controls, or who is controlled by, or who is under common control with, another person who is the holder of operating rights which duplicate, in whole or in part, except to an immaterial extent, those proposed to be transferred.

(e) *Lease of duplicate operating rights.* The Commission will not approve a transfer of operating rights for a limited period, whether by lease, or otherwise, to a person who is the holder of operating rights which duplicate, in whole or in part, except to an immaterial extent, those proposed to be transferred.

(f) *Leases.* Unless unusual circumstances are found by the Commission, an application for the transfer of operating rights for a limited period of time will not be approved for longer than one year, during which time the parties will be expected to consider and determine whether they want to enter into a transaction of sale and purchase of the rights. Nothing herein shall be construed as approving a sale and purchase of operating rights in advance of application therefor.

CONDITION: The rules set forth in paragraphs (d) and (e) of this section may be suspended, in the discretion of the Commission, with respect to transfers which are proposed because of conditions resulting from a national emergency.

(g) *Dual operations.* The Commission will not approve a transfer of operating rights which would result in the transferee holding both a certificate and a permit, or in the holding by separate persons of a certificate and a permit, under common control, unless it finds, on the basis of evidence submitted with the application, or otherwise, that such holding would be consistent with the public interest and the national transportation policy within the meaning of section 210 of the Interstate Commerce Act.

§ 179.6 Operations by fiduciaries.

(a) Unless otherwise ordered by the Commission, administrators and executors of the estates of deceased holders of operating rights, guardians of incapacitated holders of operating rights, persons having custody of the business of dissolved partnerships the members of which held operating rights as partners, and trustees, receivers, conservators, assignees, or other persons authorized by law to collect and preserve property of financially disabled, bankrupt, or deceased holders of operating rights may continue the operations authorized by such operating rights without approval by the Commission of a transfer thereof, but shall, within 30 days after assuming control of such operations, give notice thereof by furnishing to the Secretary of the Commission, a certified copy of the court order appointing the fiduciary and a statement describing such operations and identifying the operating rights under authority of which they are conducted, stating the full name and address of the person or persons who are continuing the operations, and stating the date on which, and the circumstances under which, such person or persons assumed control of such operations. If there is no court order evidencing appointment of a fiduciary, the best evidence available showing the authority of the fiduciary must be submitted.

(b) *Compliance by fiduciary.* Operations referred to in paragraph (a) of this section may be continued in the name or names of the record holder of the operating rights, followed also by the name or names of the person or persons conducting the operations and a designation of his or their capacity.[3] Compliance with this rule with respect to all tariffs, schedules, reports, or other documents filed in accordance with the Interstate Commerce Act or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such tariffs, schedules, reports, or documents be filed in the name of the holder of the operating rights.

§ 179.7 Orders of court.

If any proposed transfer presented to the Commission for approval shall also require the authority or approval of any court, applicants shall file with the Commission, at the time of filing their application, a certified copy of the order of the court authorizing the transfer of the operating rights involved, or, if the court has not acted as of that time, a copy of the order of the court shall be submitted prior to consummation of the transfer.

[F.R. Doc. 60-8714; Filed, Sept. 19, 1960; 8:47 a.m.]

Title 50—WILDLIFE

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

PART 32—HUNTING

Kentucky Woodlands National Wildlife Refuge, Kentucky

The following special regulation is issued.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

KENTUCKY

KENTUCKY WOODLANDS NATIONAL WILDLIFE REFUGE

Hunting of big game on the Kentucky Woodlands National Wildlife Refuge, Kentucky is permissible only under the following conditions:

(a) Species permitted to be taken: white-tailed or fallow deer.

(b) Open season: October 24, 1960 through October 29, 1960 and October 31, 1960 through November 5, 1960.

(c) Total bag limit: 1 deer of either sex.

(d) Methods of hunting:

(1) Weapons: bow and arrows.

(2) Dogs: no dogs allowed.

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[3] For example:

John Jones, Richard Smith, administrator; John Jones, Richard Smith, executor; John Jones and Richard Smith, d/b/a Jones & Smith, R. Roe, trustee; John Jones, Richard Smith, guardian; John Jones, Richard Smith, trustee; John Jones, Richard Smith, receiver; John Jones, Richard Smith, conservator, and John Jones, Richard Smith, assignee.

(3) Prohibited methods: no firearms, cross-bows, or other mechanical bows may be used.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on the posted area which comprises approximately 25,000 acres and 38 percent of the total refuge and which is described as follows:

That area south of State Highway No. 58 from Kentucky Lake to the Scillion Truck Trail; thence down the Scillion Truck Trail to the refuge boundary; thence along said boundary southward to the Hematite Church; thence northwest along the Hematite Church Road to the Mulberry Flat Truck Trail; thence westward along the Mulberry Flat Truck Trail to State Highway No. 453; thence northward on State Highway No. 453 to the County Line Truck Trial; thence generally westward along the County Line Truck Trail and marked fire lane to Kentucky Lake.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits may be obtained from the Refuge Manager, Kentucky Woodlands National Wildlife Refuge, Golden Pond, Kentucky, starting October 10, 1960.

(3) The provisions of this special regulation are effective September 20, 1960, through November 5, 1960.

(4) All camping will be at the designated Archery Camp.

(5) Hunters must check in at the Archery Camp and must check out at the end of the hunt.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 12, 1960.

[F.R. Doc. 60-8723; Filed, Sept. 19, 1960; 8:49 a.m.]

PART 32—HUNTING

Kentucky Woodlands National Wildlife Refuge, Kentucky

The following special regulation is issued.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KENTUCKY

KENTUCKY WOODLANDS NATIONAL WILDLIFE REFUGE

Hunting of upland game on the Kentucky Woodlands National Wildlife Refuge, Kentucky, is permissible only under the following conditions:

(a) Species permitted to be taken: turkey, squirrel, gray fox, bobcat, woodchuck, crow.

(b) Open season: October 24, 1960 through October 29, 1960 and October 31, 1960 through November 5, 1960.

(c) Daily bag limits: turkey—1; squirrel—6; gray fox—none; bobcat—none; woodchuck—none; crow—none. Season bag limit: turkey—1.

(d) Methods of hunting:

(1) Weapons—bows and arrows.

(2) Dogs: no dogs allowed.

(3) Prohibited methods: no firearms, cross-bows or other mechanical bows may be used.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on the posted area which comprises approximately 25,000 acres and 38 percent of the total refuge and which is described as follows:

That area south of State Highway No. 58 from Kentucky Lake to the Scillion Truck Trail; thence down the Scillion Truck Trail to the refuge boundary; thence along said boundary southward to the Hematite Church; thence northwest along the Hematite Church Road to the Mulberry Flat Truck Trail; thence westward along the Mulberry Flat Truck Trail to State Highway No. 453; thence northward on State Highway No. 453 to the County Line Truck Trail; thence generally westward along the County Line Truck Trail and marked fire lane to Kentucky Lake.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits may be obtained from the Refuge Manager, Kentucky Woodlands National Wildlife Refuge, Golden Pond, Kentucky, starting October 10, 1960.

(3) The provisions of this special regulation are effective September 20, 1960, through November 5, 1960.

(4) All camping will be at the designated Archery Camp.

(5) Hunters must check in at the Archery Camp and must check out at end of the hunt.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 12, 1960.

[F.R. Doc. 60-8724; Filed, Sept. 19, 1960; 8:49 a.m.]

PART 32—HUNTING

Red Rock Lakes Migratory Waterfowl Refuge, Montana

The following special regulation is issued.

§ 32.32 Special regulations; big game for individual wildlife refuge areas.

MONTANA

RED ROCK LAKES MIGRATORY WATERFOWL REFUGE

Hunting of big game on the Red Rock Lakes Migratory Waterfowl Refuge, Montana, is permissible only under the following conditions:

(a) Species permitted to be taken: antelope.

(b) Open season: September 18 through October 16, 1960.

(c) Daily bag limits: as prescribed by State regulations. One per season.

(d) Methods of hunting:

1. Weapons: as described by State regulations.

(e) Description of areas open to hunting:

Hunting is permitted in accordance with (a) above on the posted area which comprises approximately 3,000 acres and 7.5 percent of the total refuge and which is described as follows:

T. 13 S., R. 1 W.,
Sec. 25, all;
Sec. 26, all;
Sec. 27, E½;
Sec. 34, all north and east of County road;
Sec. 35, all north of County road;
Sec. 36, all north of County road;
T. 13 S., R. 1 E.
Sec. 31, all north of County road.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective September 18 through October 16, 1960.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 13, 1960.

[F.R. Doc. 60-8704; Filed, Sept. 19, 1960; 8:46 a.m.]

PART 33—SPORT FISHING

Pishkun National Wildlife Refuge, Montana

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MONTANA

PISHKUN NATIONAL WILDLIFE REFUGE

Sport fishing on the Pishkun National Wildlife Refuge, Montana, is permissible only under the following conditions:

(a) Species permitted to be taken: all species.

(b) Open season: September 20, 1960, through February 28, 1961 except closed to fishing during waterfowl hunting season. 5:00 a.m. to 10:00 p.m. daily.

(c) Daily creel limits: As prescribed by current regulations of Montana Fish and Game Department.

(d) Methods of fishing:

1. Tackle: As prescribed by State regulations.

2. Boats: Boats with motors up to 10 hp will be permitted in the East Pool. Boats will not be permitted in the West Pool.

(e) Description of Areas open to fishing:

Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 1,500 acres and 47 percent of the total refuge and which is described as follows: All water areas of the refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective September 20, 1960, through February 28, 1961.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 60-8725; Filed, Sept. 19, 1960; 8:49 a.m.]

PART 33—SPORT FISHING

Willow Creek National Wildlife Refuge, Montana

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MONTANA

WILLOW CREEK NATIONAL WILDLIFE REFUGE

Sport fishing on the Willow Creek National Wildlife Refuge, Montana, is permissible only under the following conditions:

(a) Species permitted to be taken: all species.

(b) Open season: September 20, 1960, through February 28, 1961, except during migratory waterfowl hunting season.

(c) Daily creel limits: as prescribed by current regulations of Montana Fish and Game Department.

(d) Method of fishing:

1. Tackle: as prescribed by State regulations.

2. Boats: Boats with motors up to 10 hp may be used for fishing.

(e) Description of Areas open to fishing:

Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 1,420 acres and 44 percent of the total refuge and which is described as follows: All waters of the Willow Creek National Wildlife Refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective September 20, 1960, through February 28, 1961.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 60-8726; Filed, Sept. 19, 1960; 8:49 a.m.]

PART 33—SPORT FISHING

Ruby Lake National Wildlife Refuge, Nevada

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEVADA

RUBY LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Ruby Lake National Wildlife Refuge, Nevada, is permissible only under the following conditions:

(a) Species permitted to be taken: all species.

(b) Open season: Elko County—September 20, 1960, through October 2, 1960. White Pine County—September 20, 1960, through December 31, 1960.

(c) Daily creel limits: as prescribed by State regulations.

(d) Method of fishing:

1. Tackle: as prescribed by State regulations.

2. Bait: as prescribed by State regulations.

3. Boats: No boats will be permitted in area north of the south dike. Air thrust boats prohibited. Boats with motors may be used for fishing south of the south dike from September 20 to end of fishing season.

(e) Description of Areas open to fishing:

Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 500 acres and —1 percent of the total refuge and which is described as follows: All waters in the refuge except west bank of the collection ditch in the area between Bressman Cabin and Passey Springhole.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective September 20, 1960, through December 31, 1960.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 13, 1960.

[F.R. Doc. 60-8727; Filed, Sept. 19, 1960; 8:49 a.m.]

PART 33—SPORT FISHING

Sheldon National Antelope Range, Nevada

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEVADA

SHELDON NATIONAL ANTELOPE RANGE

Sport fishing on the Sheldon National Antelope Range, Nevada, is permissible only under the following conditions:

(a) Species permitted to be taken: all species.

(b) Open season: September 20, 1960, through December 31, 1960.

(c) Daily creel limits: As prescribed by current regulations of Nevada Fish and Game Commission.

(d) Methods of fishing:

1. Tackle: As prescribed by State regulations.

2. Boats: Boats without motors may be used for fishing.

(e) Description of Areas open to fishing: Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 600 acres and less than 1 percent of the total refuge and which is described as follows:

Big Springs Reservoir.

Virgin Creek and tributaries.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective September 20, 1960, through December 31, 1960.

RICHARD E. GRIFFITH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 14, 1960.

[F.R. Doc. 60-8728; Filed, Sept. 19, 1960; 8:50 a.m.]

PART 33—SPORT FISHING

Upper Klamath National Wildlife Refuge, Oregon

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

OREGON

UPPER KLAMATH NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Klamath National Wildlife Refuge, Oregon, is permissible only under the following conditions:

(a) Species permitted to be taken: all species.

(b) Open season: September 20, 1960, through October 31, 1960 for trout and September 20, 1960, through December 31, 1960 for other species.

(c) Daily creel limits: as prescribed by current regulations of Oregon Fish Commission.

(d) Method of fishing:

1. Tackle; as prescribed by State regulations.

2. Boats: Boats with or without motors may be used for fishing.

(e) Description of Areas open to fishing: Fishing is permitted in accordance with (a) above on the posted area which comprises approximately 1,500 acres and 13 percent of the total refuge and which is described as follows: All waters of the

Upper Klamath National Wildlife Refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective September 20, 1960, through December 31, 1960.

RICHARD E. GRIFFITH,
Acting Regional Director,
Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 14, 1960.

[F.R. Doc. 60–8729; Filed, Sept. 19, 1960; 8:50 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Part 32]

PRECANCELED STAMPS

Notice of Proposed Rule Making

The Department proposed to amend the regulation in Part 32 of Title 39, Code of Federal Regulations, regarding precanceled stamps.

The proposed amendments are for the purpose of (1) clearly stating that precanceled stamps will be sold by post offices only to permit holders for use on mail; (2) providing that precanceled permits will not be issued to nonlocal applicants except for local mailing or mailing prepared for local patrons; (3) clearly stating that postmasters may not comply with requests of collectors for imprints of precanceling devices; (4) establishing a more definite guide for mailers in preparing and using precancel postmarks; and (5) clarifying the regulations with respect to the application for and issuance of permits, and the mailing of precanceled mail.

Although the regulations relate to a proprietary function of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003) in order that patrons of the Postal Service may have an opportunity to present written views concerning the proposed regulations. Accordingly, such written views may be submitted to Mr. E. A. Riley, Director, Postal Services Division, Bureau of Operations, Room 4426, Post Office Department, Washington 25, D.C., at any time prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendments are as follows:

In Part 32—Precanceled Stamps, make the following changes:

I. Amend § 32.2 *Use of precanceled stamps* to read as follows:

§ 32.2 Sale and use of precanceled stamps.

(a) *Classes of mail.* Precanceled stamps may be used to pay postage on:

(1) Post cards, but on no other first-class mail, unless specifically authorized by the postmaster on Form 3620, "Application for Permit to Use Precanceled Stamps or Government Precanceled Stamp Envelopes". (See § 32.3(b).)

(2) Second-, third-, and fourth-class mail.

(b) *Place of mailing.* Matter bearing precanceled stamps may be mailed only at the post office which sold the stamps.

(c) *Other than local patrons.* Precancel permits will not be issued to nonlocal patrons unless it is established that the precanceled stamps will be used on mailings prepared for local delivery or that the stamps will be used on mailings prepared for local patrons.

(d) *Prohibited.* Precanceled postage stamps may not be used on matter mailed in boxes, cases, bags, or other containers designed to be reused for mailing purposes.

(e) *Overprinting.* If precanceled postage on a single piece is over 8 cents, the precanceled stamps must be overprinted or handstamped in black ink with the mailer's initials and the numerical abbreviations of the month and year for use; for example, A. B. Co. 9–54. Precanceled stamps overprinted in this way are acceptable on mail during the month shown, and through the 10th of the following month.

(f) *Resale.* Precanceled stamps will be sold only to precancel permit holders for the purpose of paying postage. Unused precanceled stamps may not be sold by permit holders.

(g) *Precanceling for collectors.* Postmasters will not comply with requests for imprints of a precanceling device on postage stamps or blank sheets of paper.

NOTE: The corresponding proposed Postal Manual section is 142.2.

II. Redesignate §§ 32.3 and 32.4 as §§ 32.4 and 32.5; and insert a new § 32.3 *Mailer's precancel postmark* to read as follows:

§ 32.3 Mailer's precancel postmark.

Mailers may use a precancel postmark on stamped envelopes mailed at the first-class rate of postage or on postal cards. The precanceling imprint must include the name of the post office and State, the permit number preceded by the words "Mailer's Postmark," the date of mailing, and sufficient cancellation lines to fully deface the stamp. There is illustrated below the authorized design of a mailer's precancel postmark.

NOTE: The corresponding proposed Postal Manual section is 142.3.

III. Amend the new designated §§ 32.4 *Precancel permits* and 32.5 *Mailing of precanceled mail* to read as follows:

§ 32.4 Precancel permits.

(a) *Application for permit.* Applications for permits to use precanceled stamps, precanceled stamped envelopes, and mailer's precancel postmarks must be filed on Form 3620 at the post office where mailings will be made. Copies of this application form may be obtained from local postmaster. There must be submitted with each application from a patron of another post office a statement that he will use the precanceled stamps sold under the permit only on mailings for local delivery or on mailings prepared for local patrons who shall be named. Applications to use mailer's precancel postmarks must be accompanied with an imprint of the cancellation to be used.

(b) *Issuance of permit.* The postmaster will approve or disapprove the application. If it is approved, he will issue a "Precancel Permit" on Form 3620 to the applicant. If the permit covers the use of a mailer's precancel postmark, the permit will include a statement to that effect.

(c) *Revocation.* (1) Permits may be revoked if used in operating any schemes or enterprise of an unlawful character, or for the purpose of purchasing or acquiring stamps for other than mailing purposes, or for any noncompliance with the instructions on the "Permit", Form 3620.

(2) The permit holder will be notified on Form 3604, "Nonuse of Mailing Permit or Meter License", by the postmaster at the post office that issued the permit that it is to be canceled, with the reasons for cancellation. The permit holder will be allowed 10 days within which to file a written statement why the permit should not be revoked. When no answer is filed, the postmaster will cancel the permit. If an answer is filed, decision will be made by the Assistant Postmaster General, Bureau of Operations, whether the permit shall be continued in effect. Notice of decision will be given the permit holder through the postmaster.

§ 32.5 Mailings of precanceled mail.

Any number of pieces may be mailed at one time regardless of whether they are identical, except for third-class bulk mailings. (See Part 24 of this chapter.)

NOTE: The corresponding proposed Postal Manual sections are 142.4 and 142.5.

(R.S. 161, as amended, 396, as amended, 3921, as amended; 5 U.S.C. 22, 369, 39 U.S.C. 365)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-8674; Filed, Sept. 19, 1960; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 978]

[Docket No. AO-184-A17]

MILK IN NASHVILLE, TENN., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to 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 agreement and order regulating the handling of milk in the Nashville, Tennessee, marketing area. 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 10th 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 agreement and to the order, were formulated, was conducted at Nashville, Tenn., on June 21–24, 1960, pursuant to notice thereof which was issued May 31, 1960 (25 F.R. 4912).

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

1. Expansion of the marketing area;
2. Type of pool, including plants and handlers to be regulated;
3. Classification and allocation provisions;
4. Class prices;
5. Payment on other source milk;
6. Provisions for partial regulation;
7. Base plan; and
8. Miscellaneous changes.

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. *Marketing area.* The Order No. 78 marketing area should be expanded to include Bedford, Cheatham, Davidson, Dickson, Hickman, Houston, Humphreys, Macon, Montgomery, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Williamson, and Wilson Counties in Tennessee; Allen, Simpson, and Warren Counties in Kentucky; and the Fort Campbell military reservation in both States. This marketing area comprises an integrated milk market in which wholesale and retail routes of milk handlers doing business in the area are interspersed. The handling of milk in this proposed marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The present marketing area consists of Cheatham, Davidson, and Rutherford Counties in Tennessee. Daily sales of fluid milk products in this three-county area total about 350,000 pounds. Handlers who sell milk in this area and are, therefore, regulated by the Nashville Federal milk order also sell more than 200,000 pounds of fluid milk products daily on routes which are outside the present marketing area.

The minimum sanitary requirements applicable for Grade A milk produced for distribution throughout the proposed marketing area are those of the States of Tennessee and Kentucky, which are patterned according to a U.S. Public Health Ordinance and Code. In some cases local health authorities impose additional requirements but these do not materially affect the procurement or distribution of milk in the area.

The expansion of milk sales areas beyond isolated single metropolitan areas is a development which has come about in recent years as a consequence of better highways, improved and larger transportation equipment and better refrigeration facilities for storing and moving milk. The present marketing area is narrowly defined and does not constitute the proper marketing area under current marketing conditions. This is evidenced by the fact that Nashville handlers are now selling 37 percent of their Class I sales outside the present marketing area. The cooperative association proposed that the marketing area be expanded to include the adjacent territory where most of these out-of-area sales are made and handlers supported this proposal.

Nashville regulated handlers operate under a competitive handicap in the sale of milk outside the boundaries of the defined marketing area. Producers who supply milk to these handlers urged that the area be expanded as proposed in order to assure that the handlers who buy milk from them would be able to maintain their markets in this fringe area.

Handlers regulated by the Federal order are required to pay the minimum prices, to make reports to a market administrator and to submit to an audit of their records to assure that the minimum price requirements are met in every detail. Handlers who are not regulated because they do not sell milk in the present marketing area are not now subjected to any of these requirements.

There are 10 processors of fluid milk whose plants are located in the present marketing area and which are regulated by the present order. The handling of milk would be fully regulated at 6 additional plants in the expanded area herein proposed. Two of these plants are located in Wilson County, Tennessee, one in Robertson County, Tennessee, and three in Warren County, Kentucky.

The major portion of all fluid milk distributed in most of the counties of Tennessee and Kentucky herein proposed to be included in the marketing area is distributed on wholesale and retail routes from regulated Nashville plants. More than 50 percent, and in some instances all, of the total fluid milk distribution in each of the counties of Bedford, Dickson, Hickman, Houston, Humphreys, Macon, Montgomery, Robertson, Smith, Stewart, Sumner, and Trousdale in Tennessee and Allen County, Kentucky, is distributed by presently regulated Nashville handlers. Regulation of this territory which embraces the primary fluid milk sales area of Nashville handlers will not subject to full regulation plants of handlers from which the major portion of the total fluid milk distributed goes into other areas and markets.

Handlers who are now regulated under the Nashville order sell about half or slightly less than half of the fluid milk products disposed of in Wilson County, Tennessee. However, it is proposed that Wilson County be included in the marketing area since the two handlers located therein would be subject to full regulation because of their sales in other counties contained in the proposed marketing area. By including Wilson County the major portion of the fluid milk sales of these two handlers would be within the proposed area and the inclusion would not regulate either wholly or partially any other handler.

The dairy farmers who regularly deliver milk to the three handlers in Tennessee who would become regulated by the Nashville order under this proposal have received payment for their milk without regard to its use. These handlers have paid their producers a price equivalent to the Nashville blend price. In most cases these handlers used a larger percentage of their milk receipts in Class I than is reflected in the blend price for the Nashville market. To the extent that such handlers have a higher Class I utilization and do not purchase milk on a use basis they have a competitive advantage over the Nashville handlers who are are required to pay class prices according to the use value of their milk. Unregulated handlers have an opportunity for competitive advantage also in that they are not required to make reports and submit evidence that payments are made in accordance with announced prices and impartially determined weights and tests of milk.

The dairy farmers who supply the three handlers located in the Kentucky counties who would become regulated by this proposal have sold milk under a contract which is patterned after the Nashville order. However, these producers have no means for obtaining an impartial audit of the handlers' books and records to determine whether they are, in fact, receiving the full class utilization value of milk as it would be computed under the Federal order. One handler admitted that he had paid only the Class II price plus 40 cents per hundredweight for certain milk disposed of for fluid use although such milk would have been priced as Class I under the Nashville order.

Allen, Simpson, and Warren Counties in Kentucky represent a secondary market within the radius of the greater Nashville milk market and should be included in the marketing area because of their relationship with the Nashville market. Bowling Green is the principal city in this three-county area and three handlers located in that city make the majority of the milk sales in the area. One Nashville handler estimated his sales in that area amounted to 10 percent of the milk sold in Warren County, 30 percent of the sales in Simpson County and 68 percent of the sales in Allen County.

Although the pricing plan under which handlers purchase milk in the

Bowling Green area is similar to the plan prescribed by the Nashville order, there is no agency to supervise and enforce the plan in that area. The representative of producers selling milk to the Bowling Green handlers testified that producers in that area wish to have the assurance that minimum payments are made as required by a Federal milk order. This can be accomplished most effectively by including the three Kentucky Counties in the Nashville milk marketing area. The inclusion of Allen, Simpson, and Warren Counties in Kentucky would add to the marketing area the primary fluid milk sales area of each of the Bowling Green handlers who would become regulated.

The Fort Campbell military reservation should be included in the marketing area because of its historical relationship with the Nashville and Bowling Green markets. Nashville handlers distribute about one-third of the milk products sold on the post which are not procured under a military contract. For the past several years one of the Bowling Green handlers has furnished a substantial volume of milk to the base either through the award of a military contract or by subcontracting to supply a part of such contract.

A handler who purchases milk under the terms of the Ohio Valley Federal milk order has also at times supplied milk under military contracts to the base. This same handler makes about one-fourth of the sales on the base that are not made under contract. Although it appears that Nashville handlers and Bowling Green handlers have supplied little, if any, more fluid milk products to the Fort Campbell base than have Ohio Valley market handlers, the base should be included in the expanded Nashville marketing area. A representative of producers marketing milk under the Ohio Valley order pointed out that the producers whom he represented could acquire the Class I market whenever the handler to whom they sell milk received the sales contract even though the base is made a part of the Nashville milk marketing area. By including the base in one market or the other, producers and handlers in both markets would be assured that minimum class prices prescribed by a Federal milk order would apply to sales made in that area. The Fort Campbell military contract requires about 3,000 gallons of milk per day. Dairy farmers in Kentucky and Tennessee have developed a milk supply to fill the requirements for fluid milk products at this military base. In order to maintain that supply producers must be assured that they will receive a price commensurate with that which they receive for Class I milk sold elsewhere in this region.

Cannon, Clay, DeKalb, Jackson, Lewis, Overton, and Pickett Counties in Tennessee and Barren County, Kentucky, should not be included in the marketing area. These counties are on the fringe of the proposed Nashville marketing area. By excluding these counties from the marketing area it will be possible to exclude from full regulation certain plants whose principal fluid milk sales are in an area outside the counties which were proposed for inclusion in the marketing area. To include these counties would subject several handlers to full or partial regulation by the Nashville order although their principal sales are made in competition with handlers who would not be required to pay specified minimum prices or account for the use of their milk under a Federal order.

Perry and Wayne Counties should not be included in the marketing area. These counties are rather distant from the city of Nashville, are sparsely populated and sales in these counties represent only a very small percentage of the total fluid milk sales of regulated handlers. Since handlers who are now regulated sell all the milk in these counties, enlarging the marketing area to include these counties is not essential to achieve effective regulation. Hardin County which is even farther from Nashville should not be included in the marketing area since Nashville handlers have a relatively small share of the milk sales in the county.

In view of the similar marketing conditions which prevail throughout the proposed marketing area, the present terms and provisions of the Nashville, Tennessee, milk order, except those provisions which are proposed to be amended by this decision, are appropriate for the expanded area.

2. *Type of pool.* The marketwide type of pool should be adopted as a means of distributing to producers the returns from the sales of milk.

The cooperative association representing a majority of the producers in the market proposed to change the present individual-handler pools to a marketwide pool. This cooperative association has assumed responsibility for concentrating and marketing the reserve supplies which are not needed for fluid use. Under the individual-handler pool, there has not been an equitable sharing among producers of the lower returns received from the necessary volume of reserve milk maintained in the market. The producer members of the association have borne a disproportionate share of the burden of maintaining the reserve for the market under the present plan.

The principal milk distributors in the Nashville, Tennessee, marketing area do not handle large quantities of reserve milk. These handlers limit their purchases to their usual Class I needs and depend on the cooperative association for additional supplies of milk as they are required. Producers who are not members of the cooperative receive a blend price for milk reflecting the high Class I use of such handlers. Cooperative members receive a blend including Class II milk diverted by the cooperative without entering handlers' plants. Marketwide pooling will alleviate this situation wherein nonmember producers receive more for their milk than the cooperative association member producers.

A marketwide pool will also facilitate the movement of milk supplies among handlers to meet their individual needs and to secure the most efficient use of the reserve supplies which must be marketed in nonfluid products. The members of the cooperative association have been reblending and pooling all members' milk which represents approximately 95 percent of the total market supply. This pooling of member milk assured individual members that regardless of where a member's milk was delivered, each member was paid on the same basis. The adoption of a marketwide pool will extend the application of uniform prices to all producers.

(a) *Pool plant qualifications.* Reasonable performance standards with respect to delivery of producer milk to the market should be required of pool plants among which Class I sales are to be equalized.

The order should exempt any handler from regulation (other than reporting and record keeping) whose distributing plant is located outside the marketing area and who distributes less than an average of 300 pounds per day on routes in the marketing area. Handlers who have so little association with the market cannot be expected to affect the orderly marketing of milk in the area and it is appropriate for convenience in the administration of the terms and provisions of the order to exempt such handlers.

Under a marketwide pool the returns from all Class I and Class II sales are shared uniformly by the producers supplying all fully regulated plants, regardless of the sales in each class by the individual plant which such producers supply. In order that the income from the fluid milk sales in the market may accrue to the producers primarily engaged in supplying the fluid needs of the market, it is necessary to establish qualifications for plants whose milk receipts are to be included in the marketwide pool. Otherwise, the effects of the Class I price in providing an adequate and dependable supply of milk approved for fluid use in the market could be dissipated through pro rata sharing of the Class I utilization of the market with producers supplying milk plants not genuinely associated with the market.

Because of the difference in marketing functions between plants which are primarily engaged in the business of distributing Class I milk and supply plants which furnish bulk milk to distributing plants, two sets of performance standards are appropriate. The performance standard for distributing plants should apply only to plants primarily engaged in route distribution of Class I milk as evidenced by route disposition equal to at least half of their receipts from dairy farmers and other pool plants during the month. Plants not primarily engaged in route distribution of Class I milk may qualify as supply plants.

In order to be qualified as a pool plant, a distributing plant must, in addition to the 50 percent Class I requirement, distribute on routes in the marketing area at least 15 percent of its total Class I sales. Plants which distribute more than 85 percent of their Class I milk outside the marketing area cannot be considered to be primarily engaged in supplying the fluid needs of the market. All presently regulated plants and those which would become pool plants

by the expansion of the marketing area proposed herein make well over half of all their fluid sales within the proposed marketing area.

Performance standards should be provided for supply plants so that milk receipts at such a plant which furnishes a regular part of the market supply may be pooled. There are no supply plants operating as such in the market at this time other than the plant operated by the cooperative association.

Any plant which moves 50 percent or more of its milk receipts from dairy farmers to a pool distributing plant during the months August through February should be considered to be closely associated with the market. The months of August through February, when milk production is seasonally low, represent the period during which there is the greatest likelihood that bulk milk shipments from supply plants might be needed. Any supply plant which qualifies for pool status in each of the months of August through February should be permitted to retain pool status through the following July if the handler operating such supply plant so desires.

Provision should be made for pooling receipts of a supply plant operated by a cooperative association on the basis of overall performance of the association in relation to the market rather than on shipments from the plant. This plant operated by the cooperative association is used for concentrating milk supplies and for collecting surplus milk for the market. The primary function of this cooperative is supplying the needs of other handlers through shipments by producer members directly to such handlers' plants. Under the proposed shipping requirements for a supply plant, the association would be unable at times to pool its receipts at its own plant. Since the cooperative association performs a special function in servicing the market through this receiving plant, the plant should be pooled as long as that function is continued. Therefore, the cooperative plant should be pooled if two-thirds of the milk of producer members is received at or transferred to pool distributing plants of other handlers during the month.

(b) *Handlers to be regulated.* The present "handler" definition is appropriate as it appears in the order, except that it should be modified so that a cooperative association may become the handler with respect to milk of its producer members which is delivered to a pool plant of another handler for the account of the cooperative association in a tank truck owned and operated by, or under contract to, the cooperative association.

Transportation of milk in insulated tank trucks from the farm to handlers as directed by the cooperative association creates a problem with respect to the determination of the responsibility to the individual producers in the market under certain circumstances. The handlers have only indirect knowledge of the identity of the individual producers from whom they receive milk and of the weights and tests of the milk of such individual shippers. The cooperative association maintains such information for its member producers and the handlers accept the measurements as recorded by the agent of the cooperative association.

There are circumstances when it would be more appropriate to permit the cooperative association in control of the transportation to qualify as a handler under the order and to report milk so handled. This is true particularly when milk of several producers is commingled in the tank truck and delivered to two or more plants and in the case of producers whose milk is delivered on alternate days to different plants. The cooperative association should be provided the option of being the handler for such milk if a written request is filed with the market administrator. Accounting for the disposition of the milk by the cooperative to the distributing plant should be handled as a transfer such as from one pool plant to another. The cooperative association would be required to make monthly reports and make payments to the producer-settlement fund with respect to such milk.

3. *Classification, transfer and allocation provisions*—(a) *Classification.* Certain handlers proposed that on milk transferred from one pool plant to another the shrinkage allowance of 2 percent of receipts be divided between the two plants. Relatively little shrinkage is incurred in the receipt and disposition of bulk milk in comparison to shrinkage in processing, bottling and distribution operations. Therefore, up to one-half of one percent shrinkage should be allowed on that milk which is physically received at a pool plant from producers' farms and is transferred in bulk to another pool plant for bottling and distribution. A bottling plant should be allowed up to one and one-half percent shrinkage on that milk received in bulk form from another pool plant.

Handlers also proposed that mixtures of sour cream and sour milk with cheese and nondairy food flavorings be classified as Class II. Such products were described as dip specialty products. Several of the dip products described at the hearing are not fluid milk products as defined in the order because most of these dips are made with a cheese base. If specialty products were made with a base of sour cream, sour milk or other fluid milk products or a combination of such products they would meet the definition of a fluid milk product. Since the dip specialty products were not being manufactured by Nashville handlers at the time of the hearing, we do not know whether a sour cream type dip which would be Class I or a cheese dip which would be Class II is contemplated. Therefore, no change is recommended on the basis of this record.

The definition of fluid milk products should be revised to specify that mixtures of fluid milk products include all mixtures of the skim milk and butterfat components of milk other than those products which are excepted in the definition. Furthermore, the order should state clearly the method to be used in accounting for the skim milk component when it is sold as a fluid milk product but some of the water originally associated with such nonfat milk solids has been removed.

Condensed solids or nonfat dry milk may be used for reconstituting or fortifying certain fluid milk products. Such solids are required by the health regulations to be made from Grade A milk and should be classified as Class I milk when disposed of in a fluid milk product the same as all other skim milk in Class I products.

The pounds of skim milk disposed of in any reconstituted or fortified fluid milk products should be accounted for as an amount equal to the nonfat milk solids contained in such product plus the water content normally associated with such solids in the form of whole milk. When nonfat milk solids are added to liquid milk or skim milk, the added solids are indistinguishable from those in the solution to which they are added. Therefore, all such solids must be regarded as equal in value.

In order to achieve that result in accounting for nonfat milk solids which are received or marketed in the form of a product from which some of the water which was associated with such solids when they were delivered by farmers as normal milk, the accounting method should provide that the water removed be added to the total weight of product to be accounted for.

(b) *Transfer provisions.* The transfer provisions applicable to the classification of skim milk and butterfat transferred or diverted from a pool plant to a nonpool plant should be revised.

Under the present provisions of the order skim milk and butterfat transferred to a nonpool plant may be classified as Class II if certain conditions are met. One such condition is that the nonpool plant utilize an equivalent quantity of skim milk and butterfat in Class II during the month.

If such nonpool plant also has disposition in the form of Class I products as defined in the order, the question may arise as to whether the nonpool plant uses the milk transferred from the pool plant for such Class I disposition. If the transferred milk is the only milk at the nonpool plant qualified for fluid consumption, it is reasonable to expect that it was used to supply the nonpool plant's Class I disposition. However, if there are other Grade A milk receipts at the nonpool plant, consideration of the proper classification of milk transferred to such plant may affect returns to Grade A dairy farmers who regularly deliver their milk to the nonpool plant. Such direct deliveries of Grade A milk from farms to the nonpool plant should ordinarily have prior claim on the Class I disposition. Additional disposition of Class I milk by the nonpool plant should be credited to the transfers to such nonpool plant during the month from all pool plants on the basis of proration to milk from all Federal order regulated plants.

The method herein proposed for classifying transfers (including diversions) from pool plants to nonpool plants accords equitable treatment to the Nashville producers in assignment of avail-

able Class I use and gives appropriate recognition in the classification of milk transferred to a common nonpool plant to producers in other regulated markets and to dairy farmers supplying Grade A milk directly from farms to such plants.

(c) *Allocation provisions.* The allocation provisions should be modified so that they conform with the proposal to change the type of pool proposed herein. They also should recognize that sour cream which is received from plants regulated under either the Memphis, Tennessee or the Louisville-Lexington, Kentucky, Federal milk marketing order be subtracted from Class I ahead of producer milk if no sour cream is made in the receiving plant.

Two handlers are presently buying sour cream from the Memphis and Louisville-Lexington Federal orders. One handler buys the sour cream in bulk form and packages it in his plant while the other handler purchases his sour cream in consumer packages. The amount of sour cream purchased by these handlers is small in relation to the total Class I sales of the market. This specialty product is purchased from other plants because these handlers do not maintain facilities for making it in their pool plants.

This product is classified as Class I in both Memphis and the Louisville-Lexington market. The Class I butterfat differentials per one-tenth percent of butterfat in 100 pounds of milk averaged for 1959 in Memphis 7.1 cents and in Louisville-Lexington, 7.4 cents. The Nashville Class I butterfat differential for the same period was 7.1 cents. Therefore, the price paid to producers for skim milk and butterfat used in sour cream is at least as high in these markets as would be required under the Nashville order.

Certain handlers also proposed that there be a 5 percent allocation of producer milk to Class II when a handler purchases other source milk that is priced as Class I under another Federal milk order. This proposal should not be adopted.

There is no need for such a provision in the Nashville order. There is normally an ample supply of producer milk available in all months of the year. The amount of milk received from producers in relation to gross Class I sales in 1959 ranged from 107 percent to 141 percent. During brief periods in which the supply of producer milk may be short, it is possible that milk may be needed from other sources. If such milk is needed for Class I uses it can be received and allocated to Class I use if all producer milk in excess of allowable plant shrinkage has been allocated to Class I. The order provides an assignment of producer milk to Class II in an amount not to exceed 2 percent of such milk to cover actual plant shrinkage.

4. *Class Prices.* The Class I differential which is added to the basic formula price should be increased 10 cents per hundredweight in all months. Class I prices at plants located outside Tennessee should be reduced by location differentials. The Class II pricing formula should be revised to identify the current operators of plants for which prices paid producers are reported.

The percentage of milk received from producers which was used in Class I rose from 71.6 percent in 1957 to 80.1 percent in 1958 and 82.3 percent in 1959. The percentage of producer milk used in Class I during the early months of 1960 was a little under the percentage of a year earlier but the annual average will probably be about 80 percent. During both 1958 and 1959 small quantities of milk were received in the market during some months from sources other than producers for use in Class I sales. The percentage of producer milk used in Class I reached a high of 90.4 percent in December 1958, 93.1 percent in January 1959 and 90.6 percent in October 1959.

The Class I price was adjusted by plus amounts in each month of 1959 and so far in 1960 by the supply-demand adjuster. The amounts added to the Class I price and premiums which handlers have paid in excess of order minimum prices have helped to maintain the supply. During 1959 handlers paid premiums over order prices in seven months, ranging in amount from 6 to 39 cents and averaging 16 cents for the year. In spite of these increases, however, the market supply relative to Class I sales has remained relatively short.

The fact that the differential added to the basic formula price to determine the Class I price is lower than that used in surrounding markets has tended to curb the expansion of supply in line with increased Class I sales. The present differentials in the Nashville order are $1.10 for six months and $1.40 for six months, making an annual average differential of $1.25 per hundredweight. The Suburban St. Louis, Paducah, Ohio Valley, and Louisville-Lexington Federal order markets which adjoin Nashville on the north have annual average Class I differentials of $1.30 provided in the respective orders (Louisville-Lexington differential becomes $1.25 on July 1, 1961). The Knoxville market to the east of Nashville has a differential of $1.50, the Chattanooga market to the southast has a differential of $1.75 and the Memphis market to the southwest has a differential of $1.74. Official notice has been taken of the repective Federal milk orders which establish minimum prices for milk in these areas.

The level of the Class I price in Nashville should not remain in constant relationship to other markets in the same region if the conditions of supply and demand for milk in the Nashville market vary significantly from those prevailing in other markets. The supply-demand adjuster as provided in the order will bring about the necessary changes in intermarket prices to reflect these different conditions.

The Class I prices at plants located outside the State of Tennessee and 50 miles or more from Nashville should be reduced by location differentials.

The increased receipts of milk from areas north of Nashville and the decline in receipts from the area southeast of Nashville demonstrates the influence of relative levels of price on the changes in milk supply areas for this market. The Memphis, Chattanooga, and Knoxville markets presently and historically have maintained higher prices than those paid for milk in the Nashville market. Prices in markets north of Nashville have usually been lower than Nashville. Therefore, as more milk has been required for this market there has been a tendency to obtain additional milk from the area north of Nashville.

The milk supply for the Nashville market which was obtained from Kentucky farms increased 75 percent from 1957 to 1959, whereas milk received from Tennessee farms rose only 6 percent in that period. Moreover, the increase in receipts from Tennessee farms was greatest in the northern counties of Tennessee which lie between Nashville and the Kentucky counties from which the Nashville market obtains milk. Receipts of milk from the three-county area which comprises the present marketing area declined from 1957 to 1959 as did receipts from counties southeast of Nashville.

The availability of milk supplies relative to market outlets in Kentucky has affected the pattern of prices in that area compared to Nashville. Handlers located in Bowling Green, Kentucky have paid prices somewhat less than prices paid by Nashville handlers. Nashville handlers have paid substantial amounts over order minimum prices in several months during the past three years. Handlers in the Bowling Green area have not had to pay such premiums over order prices to maintain their milk supply.

The reason why Bowling Green handlers do not need to pay a price as high as that paid for milk delivered to Nashville is because hauling distances from farm to plant are generally shorter to Bowling Green milk plants than to Nashville plants. Warren County, in which Bowling Green is located, and adjacent Barren County are areas of heavy milk production. Net farm prices to producers who sell milk on the Bowling Green market are equivalent to those which shippers to Nashville receive even though prices f.o.b. Kentucky plants are lower because farm to plant hauling costs are lower to the Kentucky plants. The difference in hauling rates from the Kentucky area to Bowling Green as compared to the rate to Nashville indicates a 10-cent lower price at Bowling Green would provide about the same net prices at the farm for producers shipping to Bowling Green and to Nashville.

The pricing formula for Class II milk which is now contained in the Nashville order is appropriate for pricing such milk in the proposed enlarged area. The order should recognize the present operator of the manufacturing milk plant at Carthage, Tennessee, as the Borden Company. The plant listed as Cudahy Packing Company, Lafayette, Tennessee, is closed and should be removed from the list. The plants listed as Pet Milk Company, Hudson, Michigan, and Borden Company, Mount Pleasant, Michigan, which are closed, should be deleted from the list of plants whose prices paid dairy farmers for milk are used in the basic price formula.

5. *Payments on unpriced milk.* The order should provide compensatory payments with respect to unpriced milk

which is allocated to Class I in a pool plant, in any month when receipts from producers exceed 110 percent of Class I utilization at all pool plants in the market.

Regulated handlers may wish to purchase milk which is not priced under the Nashville or any other Federal milk order. The accounting and pricing provisions of the Nashville order should accommodate such purchases to the extent that producer milk is not displaced in the available Class I sales. This can be accomplished by allocating such purchases first to Class II use and by establishing an appropriate charge which the handler should pay on any such purchases allocated to Class I use. The charge should be made at a rate equal to the difference between the Class I and Class II prices provided in the order.

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

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

Other source milk used in the form of nonfat dry milk or condensed skim milk should be considered to be from a source at the location of the pool plant at which it is used. The plant where such products are made would be difficult to ascertain and the transportation cost is relatively small for such concentrated products.

Provision should be made for the possible situation in which the supply of producer milk might not be sufficient to fill Class I requirements. In such case milk purchased from outside sources would not diplace producer milk. When the total market receipts of producer milk are less than 110 percent of total Class I sales during a month it is possible that some handlers would have to purchase milk from outside the market for their Class I sales. In the past, when supplies of producer milk in the Nashville market have been low relative to Class I sales other nearby sources have also been in short supply. Under these circumstances, there is no competitive advantage to be gained by the use of other source milk, and compensatory payments would not be necessary in this market.

It was proposed that in certain months the difference between the Class I price and the uniform price be used in lieu of the difference between the Class I and Class II prices. However, all the evidence presented was in support of a rate based on the difference between Class I and Class II prices.

No compensatory payment should be required on milk which is classified and priced as Class I under any other Federal order. The alignment of Class I prices for the Nashville, Tennessee, market with those for other Federal orders prevents any significant competitive advantage to Nashville handlers who purchase other Federal order milk.

6. *Provisions for partial regulation.* Operators of nonpool distributing plants should have the choice of paying dairy farmers from whom they receive Grade A milk the use value of such milk as computed pursuant to all terms and provisions of the order or making certain payments to the producer-settlement fund.

The effectiveness of the minimum price regulation can be maintained by providing alternative methods of determining compensatory payments at a nonpool distributing plant. Subject to proper reporting and the maintenance of adequate records, the operator of such plant should be given an opportunity to choose between payment into the producer-settlement fund of: (1) An amount equal to the volume of Class I milk disposed of in the marketing area times the difference between the applicable Class I and Class II prices, or (2) the amount by which total payments to dairy farmers delivering to such plant are less than the total obligation to producers which would be due if such plant were a pool plant.

If the partially regulated handler elects to make payments under the first option, the regulation would be protected in the same manner and to the same extent as is provided with respect to compensatory payments on other source milk at pool plants. If the handler chooses to pay the full utilization value of his milk either directly to his own farmers, or by combination of payments to his farmers and to the producer-settlement fund, he will not have an advantage in terms of the minimum order class prices on his sales of Class I milk in the marketing area. His total minimum obligation for milk will be determined in the same manner as if he were a fully regulated handler. Affording this option to partially regulated nonpool plants will assure regulated handlers and the producers who supply them that all Class I milk sold in the marketing area is purchased at the Class I price.

The latter option permits such an operator, if he so elects, to make full payments to the dairy farmers who supply him rather than pooling the value of their milk at class prices with the producers whose primary market is Nashville. This exemption from pooling could, under certain circumstances, give handlers who elect the option an undue competitive advantage in the procurement of milk within the milk supply area of the Nashville market. Such an advantage could thwart handlers in acquiring an adequate supply of milk for the market at prices provided under the order.

The handlers who are likely to choose this option handle relatively small quantities of milk and purchase milk from only a few producers. Therefore, the procurement advantage which such operators might enjoy would have little effect on the maintenance of an adequate supply for the market. Furthermore, under the present organization of the market there will be no significant diversion of the revenue derived from the Class I sales in the marketing area to farmers only incidentally associated with the market at the expense of pool producers of milk for which minimum class prices are established and who are relied upon to produce an adequate and dependable supply of approved milk for the marketing area.

Under the second option, the operator of the nonpool plant would be required to file a complete report of receipts and utilization. From such reports, subject to audit, the value of his milk would be computed at the class prices and adjusted for location and butterfat content in the same manner as for a pool plant. From this utilization value the market administrator would subtract the payments to the Grade A dairy farmers who constitute the regular supply of milk for the nonpool plant as verified from the producer payroll. Only such payments would be allowed as had been made to such farmers by the 15th day following the end of the month. The payment would be the gross amount paid to such farmers for milk at the nonpool plant. Bona fide deductions for supplies and services, such as hauling, would be allowed as authorized in writing by the dairy farmer.

The assessment of administrative expense should depend upon which option is chosen by the nonpool distributor. If he elects to make a compensatory payment on his in-area sales he should be required to pay administrative expense only on such quantities of milk so disposed of in the marketing area. If he elects the payment to his own dairy farmers based on the utilization value of his milk, he should pay administrative expense on his entire receipts of milk from Grade A dairy farmers and any other receipts from unpriced sources which are allocated to Class I milk. The second option necessitates as much verification of the reports and utilization by

the market administrator as at a pool plant and the assessment should be computed on the same basis.

Since a handler may become subject to two or more Federal orders under this compensatory provision he might be required to pay administrative assessments under two or more orders on the same quantity of milk. The order should provide exemption from such assessment to the extent of payments made under another order on the same quantity of milk.

7. *Base plan.* The base transfer rules should be modified and the month of February should be dropped as a base paying month.

The order presently provides that a whole base or a part of a base may be freely transferred from one producer to another. The cooperative association proposed that such transfers be recognized only when the dairy farmer has discontinued in the dairy business and when a producer disposes of an entire base.

The base transfer rules have been used by producers to switch bases or parts of bases back and forth among themselves from one month to the next. The purpose of a base is to determine the producer's share of the higher priced base milk in the flush production season of the year. The benefits of the established base should accrue to the producer who made the base during the base forming period. Accordingly, the base transfer rules should be modified so as to allow necessary base transfers but not to permit their abuse.

The month of February should be dropped as one of the base paying months.

The amount of base milk used in Class I in February was 94.3 percent in 1960; 97.5 percent in 1959; and 89.9 percent in 1958. In view of the large percentage of base milk used in Class I, it is more appropriate for milk delivered in the month of February to be priced at the blend price.

Since the expansion of the marketing area would bring under regulation plants not previously regulated, the order should provide for the assignment of bases to dairy farmers shipping to those plants who might become producers on the effective date of the amended order. These dairy farmers should be assigned bases equal to those which they would have earned had the plant to which they deliver milk been subject to regulation during the base forming period. The market administrator should determine bases for these producers in the same manner as he determines bases for producers delivering their milk to presently regulated plants.

8. *Miscellaneous changes.* The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

The definition of a route should be added to make easy reference to the term in several other provisions. The dates specified in the order on which handlers must discharge certain obligations and on which the market administrator must perform certain duties are such that such obligations and duties can be performed under normal business practices within the time allotted.

The method of computing the butterfat differential used in making payments to producers should not be changed. A witness appearing on behalf of the principal cooperative association of producers selling milk to handlers asked that the butterfat differential used in making payments to producers be determined as a weighted average of the Class I and Class II butterfat differentials but offered no evidence to support the change.

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 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.

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

DEFINITIONS

§ 978.1 Act.

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

§ 978.2 Secretary.

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

§ 978.3 Department.

"Department" means the United States Department of Agriculture.

§ 978.4 Person.

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

§ 978.5 Cooperative association.

"Cooperative Association" means any cooperative marketing association of producers which the Secretary determines:

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

(b) To be authorized by its members to make collective sales of or to market milk or its products for its members.

§ 978.6 Nashville, Tennessee, marketing area.

"Nashville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within the boundaries of the counties of Bedford, Cheatham, Davidson, Dickson, Hickman, Houston, Humphreys, Macon, Montgomery, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Williamson and Wilson in Tennessee; Allen, Simpson and Warren in Kentucky; and the Fort Campbell military reservation.

§ 987.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority or produces milk acceptable for fluid consumption at Federal, State or municipal establishments within the marketing area, which milk is received at a pool plant or 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 a handler operating such pool plant or at a pool plant at the location of the pool plant from which diverted if for the account of a cooperative association.

§ 987.8 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more approved plant(s);

(b) A cooperative association with respect to milk of its producer members diverted for the account of such association from a pool plant to a nonpool plant; and

(c) A cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant(s) of another handler in a tank truck owned, operated by or under contract to, such cooperative association for the account of the cooperative association if the cooperative association has notified in writing, on or before the first day of the month in which such milk is received from producers, both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered.

§ 978.9 Producer-handler.

"Producer-handler" means a person who produces milk and who operates an approved plant at which he received no fluid milk products during the month accept milk of his own production and transfers from pool plants.

§ 978.10 Approved plant.

"Approved plant" means the premises, buildings and facilities of any milk processing or packaging plant from which during the month Grade A milk is shipped to a pool plant, or from which fluid milk products are distributed on routes in the marketing area.

§ 978.11 Pool plant.

"Pool plant" means any approved plant specified in paragraphs (a),(b), or (c) of this section, except a plant of a producer-handler or a plant for which a handler is exempt pursuant to §§ 978.91 and 978.93.

(a) A plant at which during the month fluid milk products are processed or packaged and from which (1) disposition of fluid milk products on routes is at least 50 percent of total receipts of Grade A milk and (2) fluid milk products distributed on routes in the marketing area are at least 15 percent of its total disposition of fluid milk products on routes.

(b) A plant from which during the month there has been delivered to plants described in paragraph (a) of this section fluid milk products approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume not less than 50 percent of its receipts of milk from approved dairy farmers: *Provided*, That any plant which qualified as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July, unless the operator of such plant files with the market administrator a written request for withdrawal prior to the first day of the month for which nonpool status is requested, in which case the plant shall remain a nonpool plant until it again qualifies for pool status.

(c) A plant operated by a cooperative association if, during the month, the sum of the milk received at other pool plants from producers who are members of such cooperative association, plus the milk which was transferred thereto from the plant operated by the cooperative association, is not less than two-thirds of the total volume of milk delivered to all plants by producers who are members of the association.

§ 978.12 Nonpool plant.

"Nonpool plant" means any milk plant other than a pool plant.

§ 978.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant directly from producers' farms, or (b) diverted from a pool plant to any other milk plant (except a plant at which such milk is fully subject to the pricing provisions of another order issued pursuant to the Act) in accordance with the provisions of § 978.7.

§ 978.14 Other source milk.

"Other source milk" means all the skim milk and butterfat contained in:

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

(b) Milk products, other than fluid milk products, from any source (including those from a plant's own production) which are reprocessed or converted to another product in the pool plant during the month.

§ 978.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream (sweet and sour) or any mixture in fluid form of skim milk and butterfat components of milk (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix and aerated cream).

§ 978.16 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months specified in § 978.72 for the computation of uniform base and excess prices, which is not in excess of such producer's daily average base computed pursuant to § 978.60, multiplied by the number of days in such month.

§ 978.17 Excess milk.

"Excess milk" means milk received at pool plants from a producer during any of the months specified in § 978.72 for the computation of uniform base and excess prices, which is in excess of the base milk of such producer for such month, and shall include all milk received during such month from a producer for whom no daily average base can be computed pursuant to § 978.60.

§ 978.18 Route.

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

MARKET ADMINISTRATOR

§ 978.20 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.

§ 978.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 978.22 Duties.

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

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

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

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

(d) Pay out of the funds provided by § 978.85; (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 § 978.86) necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

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

(f) Publicly announce, at his discretion, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 978.30 or § 978.31, or (2) payments pursuant to § 978.80, § 978.85 or § 978.87;

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

(h) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this part;

(i) Verify all reports and payments by each handler, by audit or such other investigation, as may be necessary, of such handler's records and facilities and the records and facilities of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the following: (1) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month, and (2) the 6th day of each month, the Class I price and the Class I butterfat differential, both for the current month; and (3) the 10th day after the end of each month, the uniform price(s) computed pursuant to § 978.71 or § 978.72 and the producer butterfat differential for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 978.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month each handler, except a producer-handler, and a handler exempt pursuant to § 978.91 or § 978.93 shall report for such month, to the market administrator in the detail and on forms prescribed by the market administrator the following:

(a) The quantities of skim milk and butterfat contained in producer milk showing separately such milk received from a cooperative association pursuant to § 978.8(c) and in the case of an approved plant that is not a pool plant the receipts of milk from approved dairy farmers;

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

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

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

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section including a separate statement of the disposition of Class I milk outside the marketing area.

§ 978.31 Payroll reports.

(a) Each handler, except a producer-handler and a handler exempt pursuant to § 978.91, § 978.92, or § 978.93, shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 6th day after the end of each month, for each producer from whom milk was received, (i) his name and address, (ii) the total pounds and butterfat content of milk received during the month, (iii) the total pounds of base milk and total pounds of excess milk for the month, and (iv) the amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered;

(2) On or before the 21st day of each month, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer; and

(b) Each handler operating a nonpool distributing plant who does not elect to make payments as required pursuant to § 978.92(a) shall report to the market administrator on or before the 15th day after the end of the month for each approved dairy farmer from whom milk was received (1) his name and address, (2) the total pounds and butterfat content of milk received from such dairy farmer during the month, and (3) the amount of any deductions authorized in writing by such dairy farmer to be made from payments due for milk delivered.

§ 978.32 Other reports.

Each producer-handler and each handler exempt pursuant to § 978.91 or § 978.93 shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 978.33 Records and facilities.

Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat, and shall, during the usual hours of business, make available to the market administrator, or his representative, such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat, and in case of errors or omissions, ascertain the correct figures; (b) weigh, sample and test butterfat content of all milk and milk products handled; (c) verify deductions authorized by producers and the disbursement of moneys so deducted; and (d) make such examinations of operations, equipment, and facilities as the market administrator deems necessary.

§ 978.34 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.

§ 978.35 Reports to cooperative associations.

On or before the 15th day after the end of each delivery period, the market administrator shall report to each cooperative association, as described in § 978.86(b), upon request by such association, the percentage of milk, except that milk for which the association is the handler, caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report, any milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler are allocated to such class.

CLASSIFICATION OF MILK

§ 978.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported by each handler pursuant to § 978.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 978.41 through 978.46.

§ 978.41 Classes of utilization.

Subject to the conditions set forth in §§ 978.42 through 978.46, the classes of utilization shall be as follows:

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

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product, (2) disposed of and used for livestock feed, and skim milk dumped after prior notification to, and opportunity for verification by the market administrator, (3) contained in inventories of fluid milk products on hand at the end of the month, (4) 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 (except that diverted pursuant to § 978.7) and in milk received from a cooperative for which the cooperative association is a handler pursuant to § 978.8(c) 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 (5) in shrinkage of other source milk.

§ 978.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

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

(b) Prorate the resulting amount between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 978.43 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 978.44 Transfers.

Skim milk and butterfat disposed of by a handler, either by transfers or diversions, shall be classified as follows:

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

(1) Utilization in another class is claimed by the operators of both plants in their reports pursuant to § 978.30;

(2) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat, respectively, remaining after allocation pursuant to § 978.46(a)(1) through (5) and the corresponding steps of § 978.46(b); and

(3) The classification of the skim milk or butterfat so transferred shall be classified so as to allocate to producer milk the greatest possible total Class I utilization at both places.

(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 moved to a nonpool plant in bulk form as milk, skim milk or cream unless:

(1) Such nonpool plant is located less than 250 miles from the State Capitol at Nashville, Tennessee;

(2) The operator of the transferee plant maintains books and records showing the utilization of skim milk and butterfat at such plant, which are made available if requested by the market administrator for the purpose of verification;

(3) The transferor-handler claims classification of such skim milk and butterfat in Class II in his report submitted pursuant to § 978.30; and

(4) The quantity of fluid milk products disposed of from such nonpool plant does not exceed the amount of milk received from Grade A dairy farmers who the market administrator determines to be the regular source of supply for such plant: *Provided,* That any fluid milk products disposed of from the nonpool plant which are in excess of the receipts from such dairy farmers shall be prorated to the receipts of milk transferred or diverted from all plants fully regulated by this order or by another order issued pursuant to the Act.

§ 978.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports of each handler submitted pursuant to § 978.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk in the pool plant(s) of such handler. The skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 978.46 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining after making the following computation shall be the pounds in each class allocated to milk received from producers.

(1) Subtract from the total pounds of skim milk in Class II the shrinkage of skim milk classified as Class II milk pursuant to § 978.41(b)(4);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk received in the form of sour cream if the skim milk in such cream was classified and priced as Class I milk under either the order regulating the handling of milk in the Memphis, Tenn., marketing area or the order regulating the handling of milk in the Louisville-Lexington marketing area: *Provided,* That this subtraction shall not be made if any sour cream is made during the month at any pool plant of such handler.

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of a product other than a fluid milk product;

(4) Subtract from the pounds of skim milk remaining in each class, series beginning with Class II, the pounds of skim milk in other source milk received in the form of fluid milk products which are not classified and priced as Class I milk under another order issued pursuant to the Act;

(5) Subtract from the pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of fluid milk products not subtracted pursuant to subparagraphs (2) and (4) of this paragraph;

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

(7) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received in the form of fluid milk products from other pool plants and from cooperative associations pursuant to § 978.8(c) according to the classification thereof as determined pursuant to § 978.44(a);

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

(9) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in milk received from producers subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount so subtracted shall be known as "overage".

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

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

MINIMUM PRICES

§ 978.50 Basic formula price.

The basic formula price shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraph (a), (b), (c) or (d) of this section, rounded to the nearest whole cent.

(a) To the average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department on or before the 5th day after the end of the month:

LOCATION AND PRESENT OPERATOR
Borden Co., New London, Wis.
Borden Co., Ofordville, 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.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.82(a) by 5.

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

(1) Multiplying by 4 the average as computed by the market adminstrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the month, and add 20 percent thereof;

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area for the period from the 26th day of the immedately preceding month through the 25th day of the current month, as published by the Department, subtract 5 cents and multiply by 7.5.

(c) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the month:

LOCATION AND PRESENT OPERATOR
Carnation Co., Murfreesboro, Tenn.
Kraft Foods Co., Gallatin, Tenn.
Kraft Foods Co., Pulaski, Tenn.
Borden Co., Fayetteville, Tenn.
Borden Co., Lewisburg, Tenn.
Borden Co., Carthage, Tenn.
Summer County Cooperative Creamery, Gallatin, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Wilson and Co., Murfreesboro, Tenn.

(d) The price per hundredweight computed as follows:

(1) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department during the month;

(2) Add 2.4 times the average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange: *Provided,* That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by 7, add 30 percent thereof, and then multiply by 4.

§ 978.51 Class prices.

Subject to the provisions of §§ 978.52 and 978.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus $1.50 during the months of August through January; plus $1.20 during all other months and plus or minus a supply-demand adjustment calculated for each month as follows:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization percentage by dividing the total hundredweight of producer milk of all pool plants during the twelve-month period ending with the beginning of the preceding month by the net hundredweight of Class I milk disposed of from all pool plants during the same period, and multiply the result by 100.

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than a comparable utilization percentage calculated using the twelve-month period ending with the beginning of the fourth preceding month, and

(iii) The resultant figure rounded to the nearest whole percentage shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 130, subtract from, or for each percentage by which it is less than 125, add to, the Class I price, two cents: *Provided,* That any subtraction or addition shall be limited to 50 cents.

(b) *Class II milk price.* The Class II milk price shall be the price determined pursuant to § 978.50(c) plus 25 cents during the months of February through August and plus 35 cents during all other months: *Provided,* That such price shall not exceed the basic formula price.

§ 978.52 Butterfat differentials to handlers.

For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 978.51 shall be increased or decreased, respectively, for each one-tenth percent variation in butterfat content at the appropriate rate determined as follows:

(a) *Class I.* Multiply by 0.12 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the previous month, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply by 0.115 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the month, and round to the nearest one-tenth cent.

§ 978.53 Location differential to handlers.

For that milk which is received from producers at a pool plant located outside the State of Tennessee and 50 miles or more from the State Capitol, Nashville, Tennessee, by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 978.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

	Rate per hundredweight (cents)
Distance from the State Capitol, Nashville, Tenn. (miles):	
50 but not more than 70	10.0
For each additional 10 miles or fraction thereof an additional	1.5

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 978.46 (a) (1) through (6), and the comparable steps in § 978.46(b) for such plant, such assignment to the plant from which transferred to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 978.54 Use of equivalent prices.

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

DETERMINATION OF BASE

§ 978.60 Computation of daily average base for each producer.

Subject to the rules set forth in § 978.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through January immediately preceding by 153: *Provided,* That the base of a producer, who delivers milk during August and whose deliveries are temporarily discontinued during the base-forming period, shall be determined by dividing by the number of days for which deliveries are made or by 138, whichever is higher: *And provided further,* That in the case of producers delivering milk to a pool plant which was not a pool plant during all of the preceding months of September through January a daily average base for each such producer shall be computed pursuant to this paragraph on the basis of his verifiable deliveries of milk to such plant during the period September through January preceding the month in which the plant became a pool plant.

§ 978.61 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the market administrator shall assign a base as calculated pursuant to § 978.60 to each person for whose account producer milk was delivered to pool plants during the months specified in § 978.60 for computation of base;

(b) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective, and

(c) An entire base shall be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided,* That an entire base or any portion thereof may be transferred from a producer to any other person upon adequate proof that such producer has discontinued marketing milk: *And provided further,* That if a base is held jointly, it shall be transferable only upon the receipt of such application signed by all joint holders or their heirs.

§ 978.62 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

DETERMINATION OF PRICES TO PRODUCERS

§ 978.70 Computation of the net obligation of each handler.

For each month, the market administrator shall compute the value of milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 978.46(c) by the applicable class price, and total the resulting amounts;

(b) Add the amounts computed in subparagraphs (1), (2), and (3) of this paragraph;

(1) Multiply the rate of compensatory payment determined pursuant to § 978.94

by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 978.46 (a) (3) and (b);

(2) Multiply the rate of compensatory payment determined pursuant to § 978.94 at the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 978.46 (a) (4) and (b);

(3) Multiply the rate of compensatory payment determined pursuant to § 978.94 at the nearest plant(s) from which an equivalent amount of other source milk was received by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 978.45 (a) (6) and (b), which is in excess of the sum of (i) the quantity for which a payment must be computed pursuant to paragraph (d) of this section, and (ii) the quantity subtracted from Class II milk pursuant to § 978.45 (a) (5) and (b) in the preceding month;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 978.45 (a) (9) and (b) by the applicable class prices; and

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 978.45 (a) (7) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 978.45 (a) (6) and (b) for the current month, whichever is less, respectively.

§ 978.71 Computation of the uniform price.

For each of the months of August through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 978.70 for the producer milk of all handlers who submit reports prescribed in § 978.30 and who are not in default of payments pursuant to § 978.81;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 978.83(a), and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 978.83(b);

(d) Add an amount equal to the unobligated balance on hand in the producer-settlement fund;

(e) Add the total amount of payment due pursuant to § 978.87;

(f) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

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

§ 978.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 978.30, and who are not in default of payments pursuant to § 978.81 as follows: (1) Multiply the quantity of such milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the remaining quantity of excess milk by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers;

(c) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section, times the hundredweight of excess milk from the total value of producer milk of the month as determined according to the calculations set forth in § 978.71 (a) through (e);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section, the resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f.o.b. market.

§ 978.73 Notification of handlers.

On or before the 10th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount of such handler's producer milk allocated to each class;

(b) The calculation of such handler's net obligation pursuant to § 978.70; and

(c) The amounts to be paid by such handler pursuant to §§ 978.81, 978.85, and 978.87.

PAYMENTS

§ 978.80 Producer-settlement fund.

The market administrator shall maintain a producer-settlement fund into which he shall deposit the appropriate payments made by handlers pursuant to §§ 978.81, 978.87, and 978.92 and out of which he shall make appropriate payments required pursuant to §§ 978.82 and 978.87.

§ 978.81 Payments to market administrator.

(a) On or before the 25th day of each month each handler, except a cooperative association, shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month;

(b) On or before the 12th day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's net obligation for such month as determined pursuant to § 978.70 less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

§ 978.82 Payments to producers.

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 978.81 (a) at not less than the Class II price per hundredweight for the preceding month;

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 978.81 (b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 978.71 for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the uniform base and excess prices, respectively, computed pursuant to § 978.72 for the months for which such base and excess prices are computed, subject to the following adjustments: (1) Butterfat and location differentials pursuant to § 978.83, (2) less payments made pursuant to paragraph (a) of this section, (3) less marketing service deductions pursuant to § 978.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: *Provided,* That if the market administrator has not received full payment from any handler for such month, pursuant to § 978.81, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *And provided further,* That the market administrator shall make such balance of payment to producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator

shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section; and

(d) On or before the 10th day of the following month for milk received from a cooperative asssociation for which it is a handler pursuant to § 978.8(c) at not less than the value of such milk at the applicable prices.

§ 978.83 Butterfat and location differentials to producers.

(a) The applicable uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined pursuant to § 978.52(a); and

(b) In making payment to producers pursuant to § 978.82(b), the uniform prices pursuant to § 978.71 and the uniform base price pursuant to § 978.72 to be paid for producer milk received at a pool plant located outside of the State of Tennessee and 50 miles or more from the State Capitol, Nashville, Tennessee, by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the rates specified in § 978.53.

§ 978.84 Statement to producers.

In making the payments required by § 978.82(b), the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(c) The minimum rate or rates at which payment to the producer or cooperative association is required under the provisions of §§ 978.82 and 978.83;

(d) The amount or the rate per hundredweight of each deduction claimed by the handler including any deductions made pursuant to § 978.86, together with a description of the respective deductions; and

(e) The net amount of payment to the producer or cooperative association.

§ 978.85 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 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of (a) producer milk, except producer milk received by a cooperative association pursuant to § 978.8(c), (b) own farm production, (c) milk received from a cooperative association pursuant to § 978.8(c), (d) other source milk allocated to Class I milk pursuant to § 978.46, and (e) the applicable amount specified in § 978.92 (a)(2) or (b)(2).

§ 978.86 Marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 978.82, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler(s) from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members, the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

§ 978.87 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records or accounts or other verification discloses errors resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 978.88 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 March 1, 1950, 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 obligations, 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, or if the obligation is payable to the market administrator, the account for which it is to be paid;

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

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

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

§ 978.90 Producer-handlers.

A producer-handler shall be exempt from §§ 978.70 through 978.72 and §§ 978.80 through 978.87.

§ 978.91 Exempt handler.

A handler who operates an approved plant located outside the marketing area from which an average of less than 300 pounds of fluid milk products per day are disposed of on routes in the marketing area, shall be exempt from §§ 978.70 through 978.72 and §§ 978.80 through 978.87.

§ 978.92 Handler operating a nonpool distributing plant.

Each handler, other than a producer-handler or one exempt pursuant to §§ 978.91 or 978.93 who during the month operates an approved plant not a pool plant from which fluid milk products are

distributed on a route(s) in the marketing area, shall, in lieu of the payments required pursuant to §§ 978.80 through 978.85 pay to the market administrator an amount calculated pursuant to paragraph (a) of this section, unless the handler elects, at the time of reporting pursuant to § 978.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amount:

(1) On or before the 12th day after the end of the month, for the producer-settlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class II price; and

(2) On or before the 15th day after the end of the month, as his pro rata share of the expense of administration, the rate specified in § 978.85 with respect to Class I milk disposed of on routes in the marketing area;

(b) The following amount:

(1) On or before the 15th day after the end of the month, for the producer-settlement fund any plus amount resulting from the following computation:

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 978.70 for Grade A milk received from dairy farmers at such plant for such month if such plant had been a pool plant: *Provided,* That in determining classification of transfers made to pool plants and the allocation to classes of receipts from pool plants the classification at such nonpool plant shall be in accordance with the classification which was assigned at the pool plant;

(ii) Deduct the gross payments made by the handler to dairy farmers, for Grade A milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the 15th day after the end of the month, plus the value of any supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 15th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 978.85 had such plant been a pool plant, except that such amount shall be reduced by the amount of any payment of administrative assessment charge applicable to the same milk under another order issued pursuant to the Act.

§ 978.93 Handlers subject to other Federal orders.

The provisions of this part shall not apply to a handler with respect to the operation of a plant during any month in which the milk at such plant would be subject to the classification, pricing and payment provisions of another marketing agreement or order issued pursuant to the Act and in which the disposition of fluid milk products from such plant in the other Federal marketing area: *Provided,* That the operator of a plant which is exempted from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

§ 978.94 Rate of payment on unpriced milk.

The rate of payment per hundredweight on unpriced milk allocated to Class I milk pursuant to § 978.46 shall be the Class II price, adjusted by the Class II butterfat differential, subtracted from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential; *Provided,* That such rate shall not apply if the total receipts of producer milk at pool plants during the month are not more than 110 percent of the total Class I utilization of such plants for the month.

MISCELLANEOUS PROVISIONS

§ 978.100 Effective time.

The provisions of this part or any amendments to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 978.101 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 978.102 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate;

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 978.103 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator, or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 978.104 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.

§ 978.105 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.

Issued at Washington, D.C., this 15th day of September 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-8734; Filed, Sept. 19, 1960; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 17]

SMOKED MEAT PRODUCTS

Notice of Review of Requirements Under the Meat Inspection Act

The Director of the Meat Inspection Division has designated a task force of selected personnel of that Division for the purpose of reviewing the existing requirement that "the weight of smoked products such as hams, pork shoulders, pork shoulder picnics, pork shoulder butts, beef tongues, and the like * * * shall not exceed the weight of the fresh uncured article." (9 CFR 17.8(c)(49)). The task force will review the validity of this requirement from the standpoint of consumer protection and production and marketing practices.

In reviewing this subject the task force will utilize all available resources in the Department of Agriculture, consumer, producer and industry organizations and other Federal Agencies where information pertinent to the subject can be obtained. The report of the task force will be used by the Director of the

Meat Inspection Division as the basis for any recommended changes in the above-mentioned requirement.

The task force will also review inspection procedures for the purpose of identifying workable control procedures which can be used by inspectors to assure full compliance with said requirement of any modification thereof.

All persons having any interest in this matter are requested to submit in writing their views and supporting information to the Director of the Meat Inspection Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., within 60 days after this notice appears in the FEDERAL REGISTER.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 60-8735; Filed, Sept. 19, 1960; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 608]

[Airspace Docket No. 60-NY-40]

RESTRICTED AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.27 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration a request by the Department of the Air Force for modification of the De Blois, Maine, Restricted Area (R-397). The De Blois Restricted Area (R-397) is an area of 132 square miles in the southern part of Maine, east of Bangor. The controlling agency is the 406th Refueling Wing, Dow AFB, Bangor, Maine. It is used during daylight hours, in VFR weather for air-to-air gunnery, dive bombing, and rocketing from the surface to 50,000 feet MSL.

The Federal Aviation Agency is considering modifying the De Blois restricted area as follows:

1. Change the designated altitudes from "Surface to 50,00 feet MSL" to "Surface to 39,000 feet MSL". The Department of the Air Force has stated that the altitudes from 39,000 feet to 50,000 feet MSL are no longer required as the activities for which the restricted area was designated will be confined to a maximum ceiling of 39,000 feet MSL.

2. Modify the time of designation from "Daylight hours only, VFR weather conditions only," to "1000 hours through 2400 hours, local time, Monday through Friday." This increase in time designation will permit greater utilization of the restricted area by the Dept. of Air Force to accomplish required training missions in high and low level bombing.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on September 14, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-8698; Filed, Sept. 19, 1960; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MONTANA

Notice of Filing of Montana Protraction Diagrams

SEPTEMBER 9, 1960.

Notice is hereby given that, effective with this publication, the following protraction diagrams are officially filed of record in the Montana Land Office, 1245 North 29th Street, Billings, Montana. In accordance with 43 CFR 192.42a(c) (24 F.R. 4140, May 22, 1959) and amendments of Parts 188, 193, 195, 196, 198, 199, and 200 of Title 43, Code of Federal Regulations, as published in 25 F.R. 2797 April 2, 1960 (Circular 2040), these protractions will become the basic record for the description of land in applications and offers for mineral leases and permits filed at and after 10:00 a.m. on the thirty-first day after publication of this notice. These protractions will also become the basic record for the description of lands in applications for all other authorized uses at the above-specified time.

PRINCIPAL MERIDIAN, MONTANA

Unsurveyed sections in:
T. 10 N., R. 4 E.,
T. 11 N., R. 4 E.,
T. 11 N., R. 18 E.,
Tps. 12 N., Rs. 17 and 20 E.,
T. 14 N., R. 7 E.,
Tps. 15 N., Rs. 8, 9, and 10 E.,
T. 19 N., R. 8 E.,
T. 20 N., R. 9 E.
Unsurveyed townships:
Tps. 12 N., Rs. 18 and 19 E.,
Tps. 13 N., Rs. 7, 7½, and 8 E.,
T. 14 N., R. 8 E.,
Tps. 16 N., Rs. 7, 8, 9, 10, and 11 W.

Copies of these diagrams are for sale at One Dollar ($1.00) per sheet by the Cadastral Engineering Office, Bureau of Land Management, 1245 North 29th Street, Billings, Montana.

J. R. PENNY,
State Supervisor.

[F.R. Doc. 60-8707; Filed, Sept. 19, 1960; 8:46 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3]

POULTRY GRIT FROM CANADA

Determination of No Sales at Less Than Fair Value

A complaint was received that poultry grit from Canada was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that poultry grit from Canada is not being, nor likely to to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. It was determined that the quantity sold for home consumption was adequate to base the fair value comparison on the prices in the home market. Sales to the United States were made outright. Therefore, purchase price was compared with home consumption price.

Three sizes of poultry grit were sold to the United States. The prices usually included freight to destination, United States duty, and brokerage charges, although there were some sales in which only duty and brokerage charges were included.

In the home market, sales were either ex-factory or delivered destination.

Because of the varying prices at which sales were made in each market, a weighted average of the ex-factory prices of all sales of each size in each market for the period under consideration was determined. On the basis of the comparisons, it was determined that as to each size the home market price was higher than the purchase price. The manufacturer revised his pricing promptly upon being notified of the situation, thus eliminating all price differentials. The quantity involved as to which the differentials existed was not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 60-8722; Filed, Sept. 19, 1960; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 10161]

MOHAWK AIRLINES, INC., TEMPORARY INTERMEDIATE POINTS

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard on October 12, 1960, 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., September 15, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-8731; Filed, Sept. 19, 1960; 8:50 a.m.]

[Docket 7263]

PITTSBURGH-SYRACUSE SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard on October 5, 1960, 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., September 15, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-8732; Filed, Sept. 19, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-12391]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Order Fixing Date for Oral Argument

SEPTEMBER 13, 1960.

On August 12, 1960, the presiding examiner issued an intermediate decision in this proceeding. Exceptions thereto have been filed by Kansas-Nebraska Natural Gas Company, Inc. (KNCO), Northwestern Public Service Company, State Corporation of Kansas (Kansas), and the Commission staff. Additionally, KNCO and Kansas filed motions requesting opportunity to present oral argument in support of their exceptions.

The Commission finds: It is appropriate in carrying out the provisions of the Natural Gas Act that oral argument be had before the Commission in this proceeding as hereinafter ordered and provided.

The Commission orders:

(A) Oral argument shall be had before the Commission on October 10, 1960, at 10:00 a.m. e.d.t. in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and issues presented by the above-mentioned exceptions to the presiding examiner's decision herein.

(B) Those parties to this proceeding who intend to participate in the oral argument shall notify the Secretary of the Commission on or before September 26, 1960, of such intention and of the time required for presentation of their argument.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-8699; Filed, Sept. 19, 1960; 8:45 a.m.]

LANDS WITHDRAWN IN PROJECT NO. 416

Vacation of Withdrawal Under Section 24 of Federal Water Power Act

SEPTEMBER 13, 1960.

Pursuant to the filing on May 10, 1923, of an application for a preliminary permit for proposed major Project No. 416, the Commission in its June 1, 1923, withdrawal notification letter described the lands being reserved under the provisions of section 24 of the Federal Water Power Act as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 4 S., R. 33 E. (unsurveyed),
Sec. 14, SW¼;
Sec. 15, NW¼NW¼, S½NW¼, SW¼NE¼, N½SE¼;
Sec. 16, N½NW¼, SW¼NW¼, N½NE¼, SE¼NE¼;
Sec. 17, SE¼NE¼.

The preliminary permit for the project which was issued February 25, 1924, expired February 24, 1925. Subsequently, the development of the water resources in the area was undertaken under license for minor Project No. 922, the facilities developed thereunder embracing 9.39 acres of the above-described lands. Project No. 922 was redesignated as major Project No. 1890 in 1942, and in the redevelopment of the project approximately 16.48 acres of the lands reserved in connection with Project No. 416 were included in the project area of Project No. 1890.

The lands in the area having power value are amply segregated from all forms of disposal by the notices of land withdrawals in Projects Nos. 922 and 1890.

The Commission finds: The existing power withdrawal pertaining to the above-described lands under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed major Project No. 416 serves no useful purpose and vacation of the withdrawal is in the public interest.

The Commission orders: The existing power withdrawal pertaining to the above-described lands under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed major Project No. 416 is vacated.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-8700; Filed, Sept. 19, 1960; 8:45 a.m.]

[Docket No. CP60-56]

MONTANA-DAKOTA UTILITIES CO.

Notice of Postponement of Hearing

SEPTEMBER 13, 1960.

Upon consideration of the motion filed September 7, 1960, by counsel for Montana-Dakota Utilities Co. for postponement of the hearing now scheduled for October 4, 1960, in the above designated matter;

The hearing now scheduled for October 4, 1960, is hereby postponed to December 5, 1960 at 10:00 a.m. (e.s.t.), in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-8701; Filed, Sept. 19, 1960; 8:45 a.m.]

[Docket Nos. CI60-170, CI60-171]

OIL INC. ET AL.

Notice of Applications and Date of Hearing

SEPTEMBER 13, 1960.

In the matter of Oil Incorporated, Operator, et al., Docket No. CI60-170, Grand Valley Transmission Company, Docket No. CI60-171.

Take notice that Oil Incorporated, Operator, a Nevada corporation, having its principal place of business at 907 Walker Bank Building in Salt Lake City, Utah, filed on February 11, 1960, an application (Docket No. CI60-170) pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity covering the sale of natural gas produced by Oil Incorporated from acreage in the Westwater Field, Grand County, Utah, to Grand Valley Transmission Company (Grand Valley) under the terms of a contract dated December 1, 1959. Oil Incorporated alleges that such gas will be transported through a pipeline to be constructed, owned and operated by Grand Valley for delivery into the facilities of, and for resale to, El Paso Natural Gas Company (El Paso), successor to Pacific Northwest Pipeline Corporation, for transportation and resale by El Paso in interstate commerce. Oil Incorporated states that it is advised that El Pasco will construct the necessary meter and regulating station under budget type authority issued in Docket No. G-20051.

The acreage involved herein consists of unsurveyed lands in Grand County, Utah, which, it is alleged, when surveyed will probably be described as follows:

TOWNSHIP 17 SOUTH, RANGE 23 EAST, S.L.M.

Lease	Section	Description	Acreage	Sellers working interest
				Percent
S.L.C. 071567	1	S/2	320.00	100
S.L.C. 071892	11	E/2	960.00	100
	12	All		
S.L.C. 071893	13	All	960.00	100
	14	E/2		

And the following surveyed lands in Grand County, Utah:

TOWNSHIP 17 SOUTH, RANGE 24 EAST, S.L.M.

U-04031	6	Lots 6, 7, E/2 SW/4	172.43	100
U-04011	7	Lots 1, 2, E/2 NW/4, NE/4 SE/4	211.98	100
S.L.C. 071892	7	Lots 3, 4, E/2 SW/4, W/2 SE/4 SE/4 SE/4	1,262.62	100
	17	W/2, SE/4		
	18	Lots 1, 2, E/2 NW/4, E/2		
U-013696-A	7	W/2 NE/4	80.00	100
S.L.C. 071893	18	Lots 3, 4, E/2 SW/4	170.56	100
U-026-A	8	W/2 SW/4	80.00	100

None of the gas involved will be purchased from third parties. The per centum of ownership in the working interest in said property is as follows:

	Percent
Oil, Inc	51.00
East Utah Mining Co	16.52
George E. Cranmer	5.00
W. H. H. Cranmer	4.00
Robert L. Cranmer	4.00
Midland Investment Co	3.85
Futures, Incorporated	3.85
New Park Mining Company	3.85
James E. Wetherell	2.00
Claude Smith	1.63
Frank M. Whitney	1.00
Monroe C. Wissmar	1.00
Richard C. Freed	.77
Charles C. Freed	.77
Renee Dykes, Trustee	.38
Homer A. Mann	.38
	100.00

All the above co-owners are signatories to the sales contract attached to the application of Oil, Incorporated, as Exhibit B. (FPC Gas Rate Schedule No. 1 of Oil, Incorporated, Operator).

The delivery points are at the wellheads and are shown on Exhibit A attached to said application (CI60-170). The delivery pressure is described as variable. The contract provides for an initial price of 12 cents per Mcf, including tax reimbursement, at 15.025 psia, an escalation of 1 cent per Mcf for the third and fourth five year periods during the primary period of the contract. No hydrocarbon liquids are included. The contract further provides that the purchaser shall pay three-fourths of any new taxes assessed against the sellers after the date of contract, and there is a proportional price adjustment based on heating value above or below 985 Btu per cubic foot for gas delivered. The contract provides for the delivery to Grand Valley of a maximum daily volume of 12,000 Mcf. The estimated initial volume is 9,000 Mcf per day.

Take further notice that filed concurrently with said application of Oil Incorporated on February 11, 1960, was an application of Grand Valley Transmission Company, a Nevada corporation having its principal place of business at 1102 Walker Bank Building in Salt Lake City, Utah (Docket No. CI60-171), pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity covering the gather-

ing, transportation and sale of natural gas as hereinafter described.

Grand Valley proposes to purchase from Oil, Incorporated, et al., a maximum of 12,000 Mcf per day of natural gas produced by Oil, Incorporated, in said Westwater Field of Grand County, Utah, pursuant to the terms of the contract described above in the application of Oil, Incorporated. Grand Valley proposes to construct and operate facilities to gather the gas purchased, dehydrate, compress and transport for sale to El Paso for resale in interstate commerce.

Grand Valley proposes to construct and operate, in addition to field lines and dehydration facilities, approximately 16.2 miles of 6-inch pipeline to extend southeasterly from the Westwater Field to the point of connection with the pipeline system of El Paso.

The estimated total initial cost of construction is $500,000. It is proposed that $125,000 of the total initial investment will be supplied by the sale of stock and the balance of $375,000 will be financed by a bank loan.

Grand Valley proposes to dehydrate gas purchased at the wellheads, for high pressure wells, and at the Robidoux Compressor Station, for low pressure wells. The Robidoux Compressor Station will consist of two compressors of 200 horsepower each, with accessory separators and a dehydrator. The field compressor units to be installed at the Robidoux Compressor Station will be leased from others.

A summary of the gas purchase contract under which El Paso will purchase natural gas from Grand Valley is as follows:

Location of sale	Eastern Grand County, Utah, approximately 35 miles WNW of Grand Junction, Colo.
Date of contract	Dec. 1, 1959.
Initial price per Mcf including tax reimbursement	17½ cents.
Measurement pressure base (psia)	15.025.
Type of escalation provision	Fixed escalation of 1 cent per Mcf for the third and fourth 5-year periods during the primary period of the contract. Price redetermination based on current "reasonable market price" after tenth and fifteenth year, upon seller's request.
Hydrocarbon liquids included	No.
Other price adjustments	The contract provides that the purchaser shall pay ¾ of any new taxes assessed against Seller after the date of the contract; and there is a proportional price adjustment based on heating value above or below 985 Btu per cubic foot for gas delivered.
Estimated initial volume (Mcf per day)	9,000.
Delivery Pressure (psig)	900.
Delivery point	Milepost 270.0 on purchaser's main transmission line.

These applications are on file with the Commission and open for public inspection.

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 November 14, 1960, at 10:00 a.m. e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

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 1.10) on or before October 24, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-8702; Filed, Sept. 19, 1960; 8:45 a.m.]

[Docket No. CP61-7]

WATER WORKS SEWER AND GAS BOARD OF THE CITY OF SCOTTSBORO, ALA.

Notice of Application

SEPTEMBER 13, 1960.

Take notice that The Water Works Sewer and Gas Board of the City of Scottsboro, Alabama (Applicant), filed on July 13, 1960, an application for an order, pursuant to section 7(a) of the Natural Gas Act directing Southern Natural Gas Company (Southern Natural), to sell gas to it for distribution in the City of Scottsboro, Alabama, and environs. It is requested that Southern Natural deliver the volumes of gas hereinafter set forth to the Marshall County Gas District (District) for the account of Applicant at an existing connection near the City of Guntersville, Alabama. It appears that no additional facilities will be needed by Southern Natural.

District would transport such gas through its existing facilities to a proposed connection to be built by Applicant near Applicant's proposed transmission line which will connect with District's line near Guntersville. Applicant proposes to construct approximately 29.4 miles of 6⅝ inch transmission line from Guntersville to the City of Scottsboro and to construct and operate a distribution system in the City and surrounding territory. The City has granted a franchise to Applicant to construct and operate a distribution system.

District and Applicant entered into agreement dated November 13, 1958, whereby the District would transport up to 2,700 Mcf of gas per day for Scottsboro and environs. District would operate that portion of Applicant's transmission line from the City of Guntersville to the Marshall-Jackson County line and Applicant would operate the remainder from this point to Scottsboro.

Applicant estimates population in and near Scottsboro at approximately 7,000 with total potential customers of 2,170. The estimated gas requirements for the proposed system, as ascertained by a field survey are as follows:

Year	Requirements in Mcf	
	Peak day	Annual
1	1,269	136,560
2	1,544	166,300
3	1,936	208,380

On August 4, 1960, Southern Natural advised by its answer that it had no objection to rendering the proposed service to Scottsboro.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 3, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-8703; Filed, Sept. 19, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 15, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36571: *Sulphur—Southwestern territory to official territory.* Filed by Southwestern Freight Bureau, Agent (No. B-7896), for interested rail carriers. Rates on sulphur (brimstone), crude, unground and unrefined, in carloads, from specified points in Texas and Louisiana, also Hobbs, N.M., to specified points in official territory.

Grounds for relief: Market competition.

Tariff: Supplement 158 to Southwestern Freight Bureau tariff I.C.C. 4177.

FSA No. 36572: *Sulphur—Campbellton, Tex., to the South.* Filed by Southwestern Freight Bureau, Agent (No. B–7897), for interested rail carriers. Rates on sulphur in carloads, from Campbellton, Tex., to specified points in Florida, Georgia, North Carolina, South Carolina, also Dothan, Ala., Calvert, Ky., and specified points in Virginia.

Grounds for relief: Market competition.

Tariff: Supplement 158 to Southwestern Freight Bureau tariff I.C.C. 4177.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 60–8715; Filed, Sept. 19, 1960; 8:47 a.m.]

[Taylor's I.C.C. Order No. 123–A; Rev. S. O. 562]

PENNSYLVANIA RAILROAD CO.

Rerouting of Traffic; Vacation of Order

Upon further consideration of Taylor's I.C.C. Order No. 123 (The Pennsylvania Railroad Company) and good cause appearing therefor:

It is ordered. That:

(a) Taylor's I.C.C. Order No. 123, be, and it is hereby vacated and set aside.

(b) *Effective date.* This order shall become effective at 9:00 a.m., September 12, 1960.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 12, 1960.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 60–8716; Filed, Sept. 19, 1960; 8:47 a.m.]

[Taylor's I.C.C. Order No. 124–A; Rev. S.O. 562]

GRAND TRUNK WESTERN RAILROAD CO.

Rerouting of Traffic; Vacation of Order

Upon further consideration of Taylor's I.C.C. Order No. 124 (Grand Trunk Western Railroad Company) and good cause appearing therefor:

It is ordered, That:

(a) Taylor's I.C.C. Order No. 124, be, and it is hereby vacated and set aside.

(b) *Effective date.* This order shall become effective at 9:00 a.m., September 12, 1960.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 12, 1960.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 60–8717; Filed, Sept. 19, 1960; 8:47 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die,* and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under *Title 2, The Congress.* A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 86th Congress, Second Session.

Approved September 16, 1960

S. 2917 ..... Public Law 86–799
An Act to establish a price support level for milk and butterfat.

H.R. 10841 ..... Public Law 86–800
An Act to amend the Tariff Act of 1930 to place bamboo pipe stems on the free list.

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PROPOSED RULES:
- 3 — 8549
- 4 — 8549

20 CFR

- 325 — 8863
- 404 — 8605

21 CFR

- 3 — 8769
- 17 — 8366
- 19 — 8947
- 25 — 8948
- 27 — 8366, 8769
- 51 — 8366
- 120 — 8545, 8638, 8948
- 121 — 8366–8368, 8605, 8949
- 146a — 9002

PROPOSED RULES:
- 120 — 8577, 8578, 8959
- 121 — 8578, 8960

22 CFR

- 202 — 8605

24 CFR

- 200 — 8486

25 CFR

- 163 — 9002

26 (1939) CFR

- 17 — 8375

26 (1954) CFR

- 1 — 8369, 8776, 8904

PROPOSED RULES:
- 1 — 8550, 8554, 8641
- 48 — 8782

29 CFR

- 2 — 9003
- 672 — 8812
- 673 — 8742
- 675 — 8743
- 677 — 8813

PROPOSED RULES:
- 545 — 8747

32 CFR

- 157 — 8606
- 561 — 8607
- 562 — 8638
- 577 — 8545
- 590 — 8375
- 592 — 8375
- 596 — 8375
- 598 — 8375
- 601 — 8375
- 602 — 8375
- 605 — 8375
- 606 — 8375
- 836 — 8715

33 CFR

- 72 — 8949
- 203 — 8906, 9003
- 205 — 9003
- 207 — 8378, 8379, 8906