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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3378

IMPOSING IMPORT QUOTAS ON TUNG OIL AND TUNG NUTS

By the President of the United States
of America
A Proclamation

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the Secretary of Agriculture advised me he had reason to believe that tung oil and tung nuts are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to tung nuts; and

WHEREAS, on August 30, 1960, I requested the United States Tariff Commission to make an investigation under the said section 22 with respect to this matter; and

WHEREAS the Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the investigation and report of the Tariff Commission, I find that, in the absence of import restrictions beyond October 31, 1960, tung oil and tung nuts are practically certain to be imported into the United States under such conditions and in such quantities as to materially inter-

fere with the said price-support program; and

WHEREAS I find and declare that the imposition of the limitations on imports of tung oil and tung nuts hereinafter proclaimed is shown by such investigation of the Tariff Commission to be necessary in order that the entry of tung oil and tung nuts will not materially interfere with such price-support program; and

WHEREAS I find that the limitations on imports of tung oil and tung nuts hereinafter proclaimed will not reduce the permissible total quantity of tung oil and tung nuts which may be entered, or withdrawn from warehouse, for consumption, to proportionately less than 50 per centum of the average annual quantity of tung oil and tung nuts entered during the representative period November 1, 1952, to October 31, 1956, inclusive:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim as follows:

1. For each of the three twelve-month periods beginning on November 1, 1960, November 1, 1961, and November 1, 1962, the total aggregate quantity of tung oil and tung nuts (in terms of their oil equivalent) entered, or withdrawn from warehouse, for consumption shall not exceed 26,000,000 pounds, of which not more than 6,500,000 pounds shall be entered or withdrawn during the first quarter of each such twelve-month period.

2. Of the 26,000,000 pounds specified in paragraph 1 not more than 22,100,000

pounds shall be the product of Argentina, nor more than 2,964,000 pounds shall be the product of Paraguay, nor more than 936,000 pounds shall be the product of other foreign countries; and of the 6,500,000 pounds specified in paragraph 1 not more than 5,525,000 pounds shall be the product of Argentina, nor more than 741,000 pounds shall be the product of Paraguay, nor more than 234,000 pounds shall be the product of other foreign countries.

For the purposes of this proclamation the oil equivalent of tung nuts shall be computed on the basis of 15.9 pounds of oil for each 100 pounds of whole nuts, and on the basis of 35.8 pounds of oil for each 100 pounds of decorticated nuts.

In order to assure equitable treatment to supplying countries, all tung oil and tung nuts entered or withdrawn pursuant to this proclamation shall have been a direct shipment destined to the United States on an original through bill of lading from the country of production.

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 twenty-seventh day of October 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.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 60-10320; Filed, Oct. 31, 1960; 11:01 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

[Lemon Reg. 869, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(i) and (iii) of § 953.976 (Lemon Regulation 869; 25 F.R. 10085) are hereby amended to read as follows:

- (ii) District 2: 209, 250 cartons;
- (iii) District 3: 69,750 cartons.

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

Dated: October 27, 1960.

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

[F.R. Doc. 60-10216; Filed, Oct. 31, 1960; 8:46 a.m.]

10450

[Area No. 2; Amdt. 2]

PART 958—IRISH POTATOES GROWN IN COLORADO

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 97 as amended and Marketing Order No. 58, as amended (7 CFR Part 958), regulating the handling of potatoes grown in the State of Colorado, effective under the provisions of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Area Committee for Area No. 2, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule-making procedures, and that good cause exists for not postponing the effective date of this amendment for 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this amendment, (3) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (4) information regarding the committee's recommendation had been made available to producers and handlers in the production area, and (5) this amendment is in relief of restrictions.

Order. In § 958.334 (25 F.R. 8808, 9922) delete subparagraph (2) of paragraph (c) and paragraph (f) and substitute therefor a new subparagraph (2) of paragraph (c) and a new paragraph (f) as set forth below.

§ 958.334 Limitation of shipments.

(c) *Special purpose shipments.* * * *
(2) Potatoes may be handled for chipping if such potatoes meet the grade, size, and pack requirements of U.S. No. 1, Size B; or U.S. No. 2 or better grade, 2 inches minimum diameter, except for (i) scab and (ii) the maturity requirements of paragraph (b).

(f) *Definitions.* The terms "U.S. No. 2," "slightly skinned," "moderately skinned," "scab," and "size B," shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540-51.1556 of this title), including the tolerances set forth therein. The U.S. No. 1, or better grade, Size B, means a pack of potatoes pursuant to § 958.13. Other terms used in this section shall have the same meaning as when used in marketing Order No. 58, as amended. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 27, 1960, to become effective November 1, 1960.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60-10236; Filed, Oct. 31, 1960; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 74—SCABIES IN SHEEP

Interstate Movement

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 4 and 5 of the Act of May 29, 1884, as amended (21 U.S.C. 111-113, 120, 121, 123, 125), §§ 74.2 and 74.3 of Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, are hereby amended to read as follows:

§ 74.2 Designation of free and infected areas.

Notice is hereby given that sheep in the following States, Territories, and District, or parts thereof as specified, are not known to be infected with scabies and such States, Territories, District, or parts thereof, are hereby designated as free areas: Alabama, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, North Carolina, Oregon, Puerto Rico, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington, Wyoming, that portion of South Dakota west of the Missouri River, and the following Counties in New Mexico—Catron, Colfax, De Baca, Guadalupe, Harding, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Santa Fe, San Juan, San Miguel, Sandoval, Sierra, Socorro, Taos, Torrance, Union, and Valencia. Notice

is hereby given also that sheep scabies exists in all other States and Territories, and parts thereof, and they are hereby designated as infected areas.

§ 74.3 Designation of eradication and quarantine areas.

(a) Notice is hereby given that sheep in the following States, Territories, or parts thereof as specified, are being handled systematically to eradicate scabies in sheep and such States, Territories, or parts thereof, are hereby designated as eradication areas: That portion of South Dakota east of the Missouri River, and all Counties in New Mexico except Catron, Colfax, De Baca, Guadalupe, Harding, McKinley, Mora, Quay, Rio Arriba, Sandoval, Roosevelt, Santa Fe, San Juan, San Miguel, Sierra, Socorro, Taos, Torrance, Union, and Valencia Counties.

(b) No areas are quarantined under this part at this time.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 111-113, 120, 121, 123, 125. Interpret or apply secs. 6, 7, 23 Stat. 32, as amended, secs. 2, 4, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 115, 117, 124, 126, 19 F.R. 74, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment adds the Counties of McKinley, Roosevelt, Socorro, Taos, and Valencia in New Mexico, to the free areas and deletes such counties from the infected areas and eradication areas, as sheep scabies are not known to exist in such counties. Hereafter, the restrictions pertaining to the interstate movement of sheep from, into, and through infected and eradication areas as contained in 9 CFR Part 74, as amended, will not apply to these counties. However, the restrictions in said Part 74 pertaining to the interstate movement of sheep into free areas will apply thereto.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of October 1960.

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

[F.R. Doc. 60-10238; Filed, Oct. 31, 1960; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7684 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Geo. E. Mallinson Importing Co., Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: § 13.1185-40 *In general*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist orders: Geo. E. Mallinson Importing Co., Inc., et al., New York, N.Y., Docket 7684, September 22, 1960; Colonial Rug Company, Inc., et al., Taunton, Mass., Docket 7684, September 7, 1960]

In the Matter of Geo. E. Mallinson Importing Co., Inc., a Corporation, and William Brown, W. T. Orr and Marion H. Singer, Individually and as Officers of Said Corporation; and Colonial Rug Company, Inc., a Corporation, and Walter A. Srocinski and Harry L. MacCready, Jr., Individually and as Officers of Said Corporation

Consent orders issued under different dates requiring two distributors of rugs in New York City and Taunton, Mass., respectively, to cease violating the Federal Trade Commission Act by labeling as "Mayflower wool blend braided rug", rugs which contained a substantial quantity of fibers other than wool; by describing as "wool blend", rugs composed largely of "reused" wool; and by failing to disclose that certain rugs which had the appearance and feel of wool were composed in part of rayon.

The identical orders to cease and desist, combined, are as follows:

It is ordered, That Geo. E. Mallinson Importing Co., Inc., a corporation, and its officers, and William Brown, W. T. Orr and Marion H. Singer, individually and as officers of said corporation; and Colonial Rug Company, Inc., a corporation, and its officers, and Walter A. Srocinski and Harry L. MacCready, Jr., individually and as officers of said corporation; and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of rugs or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly set forth the rayon content of products composed in whole or in part of rayon, in a clear and conspicuous manner, on invoices, labels and in the advertising of such products;
2. Using the term "wool" or "all wool" or any other word or term indicative of wool to designate or describe any product or portion thereof which is not composed

wholly of wool, the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, or hair of the camel, alpaca, llama, or vicuna, which has never been reclaimed from any woven or felted product; provided, that in the case of products or portions thereof which are composed in part of wool and in part of other fibers or materials, the term "wool" may be used as descriptive of the wool content of the product or portion thereof if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designating each constituent fiber or material thereof in the order of its predominance by weight: *Provided further*, That if any fiber or material so designated is not present in a quantity of five percentum or more of the total fiber weight of the product, the percentage thereof shall be stated. Nothing herein shall prohibit the use of the terms "reprocessed wool" or "reused wool" when the products or those portions thereof referred to are composed of such fibers;

3. Misrepresenting, in any manner, the fiber content of any product.

Provided, however, That nothing herein shall relieve the respondents from their obligation to comply with the requirements of the Textile Fiber Products Identification Act which became effective March 3, 1960, or forbid the respondents thereafter from labeling and otherwise offering products subject to that Act in the manner prescribed thereby and rules and regulations promulgated thereunder by the Commission.

The terms "reprocessed wool" and "reused wool," as herein used, are to be defined as in section 2 (c) and (d) of the Wool Products Labeling Act.

By "Decision of the Commission", etc., addressed separately to the two groups of respondents, reports of compliance were required as follows (combining the orders):

It is ordered, That respondents Geo. E. Mallinson Importing Co., Inc., a corporation, and William Brown, W. T. Orr and Marion H. Singer, individually and as officers of said corporation; and respondents Colonial Rug Company, Inc., a corporation, and Walter A. Srocinski and Harry L. MacCready, Jr., individually and as officers of said corporation, shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: September 7, 1960, and September 22, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-10220; Filed, Oct. 31, 1960; 8:46 a.m.]

[Dockets 7894 c.o., 7915 c.o.]

PART 13—PROHIBITED TRADE PRACTICES**Sue Records, Inc., et al.**

Subpart—Bribing customers' employees: § 13.315 *Employees of private concerns.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist orders: Sue Records, Inc., et al., New York, N.Y., Docket 7894, Sept. 14, 1960; and Apollo Records N.Y. Corp. et al., New York, N.Y., Docket 7915, Sept. 13, 1960]

In the Matters of: Sue Records, Inc., a Corporation and Henry Murray, Jr., Individually and as an Officer of Said Corporation; and Apollo Records N.Y. Corp., a Corporation, and Melvin Albert, Individually and as an Officer of Said Corporation

Consent orders requiring a manufacturer and a distributor of phonograph records, both of New York City, to cease giving concealed payola to disc jockeys and other personnel of radio and television musical programs to induce frequent playing of their records in order to increase sales.

Identical orders to cease and desist, combined, are as follows:

It is ordered, That respondents Sue Records, Inc., a corporation, and its officers, and Henry Murray, Jr., individually and as an officer of said corporation; respondents Apollo Records N.Y. Corp., a corporation, and its officers, and Melvin Albert, individually and as an officer of said corporation; and respondents' agents, representatives and employees, directly, or through any corporate or other device, in connection with phonograph records which have been distributed, in commerce, or which are used by radio or television stations in broadcasting programs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Giving or offering to give, without requiring public disclosure, any sum of money or other material consideration, to any person, directly or indirectly, to induce that person to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or either [any] of them have a financial interest of any nature.

(2) Giving or offering to give, without requiring public disclosure, any sum of money, or other material consideration, to any person, directly or indirectly, as an inducement to influence any employee of a radio or television broadcasting station, or any other person, in any manner, to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or either [any] of them, have a financial interest of any nature.

There shall be "public disclosure" within the meaning of this order, by any employee of a radio or television broadcasting station, or any other person, who selects or participates in the selection and broadcasting of a record when he shall disclose, or cause to have dis-

closed, to the listening public at the time the record is played, that his selection and broadcasting of such record are in consideration for compensation of some nature, directly or indirectly, received by him or his employer.

By "Decision of the Commission", etc., in each case, reports of compliance were required as follows:

It is ordered, That the above-named respondents shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing, setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: September 13, 1960 (D. 7915); September 14, 1960 (D. 7894).

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-10209; Filed, Oct. 31, 1960; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES**Chapter II—Securities and Exchange Commission****PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933****Filing of Amendments; Number of Copies**

The Securities and Exchange Commission has amended paragraph (b) of Rule 472 (§ 230.472) under the Securities Act of 1933, which relates to the filing of amendments to registration statements filed under the Act.

Paragraph (a) of this rule requires three copies of every amendment, other than telegraphic delaying amendments, to be filed with the Commission. Paragraph (b) provides that where an amendment relates to the prospectus, five additional copies of the amended prospectus shall be furnished for use in the examination of the material. The amended paragraph (b) requires that where an amendment relates to financial statements not included in the prospectus, five additional copies of the amended statements shall also be furnished.

The text of paragraph (b) as amended is as follows:

§ 230.472 Filing of amendments; number of copies.

* * * * *

(b) Where an amendment relates to the prospectus or to financial statements not included in the prospectus, there shall be furnished for use in the examination of the amendment, in addition to the three copies of the amendment required by paragraph (a) of this section, five copies of the amended prospectus and the cross reference sheet, if amended, and five copies of the amended financial statements and the related index and certificate and consent of the certifying accountants. This paragraph

shall not apply to amendments filed pursuant to the undertaking referred to in § 230.415(a)(1) (Rule 415(a)(1)).

The Commission finds that the foregoing amendment is necessary for the expeditious examination of registration statements and amendments thereto, that it does not impose any substantial burden upon issuers or other persons and that notice and procedure pursuant to the Administrative Procedure Act are unnecessary.

The amendment shall become effective November 25, 1960.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

OCTOBER 25, 1960.

[F.R. Doc. 60-10211; Filed, Oct. 31, 1960; 8:45 a.m.]

PART 286—GENERAL RULES AND REGULATIONS PURSUANT TO SECTION 11(a) OF THE INTER-AMERICAN DEVELOPMENT BANK ACT**Periodic Reports**

The Securities and Exchange Commission adopted rules and regulations (Part 286) specifying the periodic and other reports to be filed with it by the Inter-American Development Bank. This action is taken pursuant to section 11(a) of the Inter-American Development Bank Act.

Section 11 of the above-mentioned act exempts from registration under both the Securities Act of 1933 and the Securities Exchange Act of 1934 securities issued in connection with the raising of funds for inclusion in the Bank's ordinary capital resources and securities guaranteed as to both principal and interest by the Bank. However, the Bank is required to file with the Commission such annual and other reports with respect to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors. It would appear that an exemption is available under the Trust Indenture Act of 1939.

The new rules and regulations adopted require the Bank to file with the Commission substantially the same information, documents and reports as would be required if the Bank had securities registered under the Securities Exchange Act of 1934. The Bank is also required to file a report with the Commission not less than seven days prior to the date on which any of its primary obligations are sold to the public in the United States. This report and the periodic reports to be filed will make available at the Commission information quite similar to the information which would be required in a registration statement under the Securities Act of 1933.

The Commission is informed by the Bank that no public offering of securities guaranteed by the Bank is presently contemplated. Accordingly, the new rules, insofar as they require the reporting of the proposed public sale of

securities, are limited to the sale of primary obligations of the Bank. Rules with respect to reporting the proposed sale of securities guaranteed by the Bank will be adopted by the Commission when the need therefor arises.

The new regulation, which is designated Part 286 (Regulation IA), was adopted pursuant to section 11(a) of the Inter-American Development Bank Act, the Commission finding such action appropriate in view of the special character of the Inter-American Development Bank and its operations and necessary in the public interest and for the protection of investors. The text of the new part follows:

- Sec.
- 286.1 Applicability of part.
- 286.2 Periodic reports.
- 286.3 Reports with respect to proposed distribution of primary obligations.
- 286.4 Preparation and filing of reports.

AUTHORITY: §§ 286.1 to 286.4 issued under 22 U.S.C. 283(a-1), 73 Stat. 299.

§ 286.1 Applicability of this part.

This part (Regulation IA) prescribes the reports to be filed with the Securities and Exchange Commission by the Inter-American Development Bank pursuant to section 11(a) of the Inter-American Development Bank Act.

§ 286.2 Periodic reports.

(a) Within 45 days after the end of each of its fiscal quarters, the Bank shall file with the Commission the following information:

- (1) Information as to any purchases or sales by the Bank of its primary obligations during such quarter.
- (2) Copies of the Bank's regular quarterly financial statement.
- (3) Copies of any material modifications or amendments during such quarter of any exhibits (other than (i) constituent documents defining the rights of holders of securities of other issuers guaranteed by the Bank, and (ii) loans and guaranty agreements to which the Bank is a party) previously filed with the Commission under any statute.

(b) Copies of each annual report of the Bank to its Board of Governors shall be filed with the Commission within 10 days after the submission of such report to the Board of Governors.

§ 286.3 Reports with respect to proposed distribution of primary obligations.

The Bank shall file with the Commission, not less than seven days prior to the date on which it proposes to sell any of its primary obligations in connection with a distribution of such obligations in the United States, a report containing the information and documents specified in Schedule A below. The term "sell" as used in this section and in Schedule A means the making of a completed sale or a firm commitment to sell.

§ 286.4 Preparation and filing of reports.

(a) Every report required by this part shall be filed under cover of a letter of transmittal which shall state the nature of the report and indicate the particular

rule and subdivision thereof pursuant to which the report is filed. At least the original of every such letter shall be signed on behalf of the Bank by a duly authorized officer thereof.

(b) Two copies of every report, including the letter of transmittal, exhibits and other papers and documents comprising a part of the report, shall be filed with the Commission.

(c) The report shall be in the English language. If any exhibit or other paper or document filed with the report is in a foreign language, it shall be accompanied by a translation into the English language.

(d) Reports pursuant to § 286.3 may be filed in the form of a prospectus to the extent that such prospectus contains the information specified in Schedule A.

SCHEDULE A

This schedule specifies the information and documents to be furnished in a report pursuant to § 286.3 with respect to a proposed distribution of primary obligations of the Bank. Information not available at the time of filing the report shall be filed as promptly thereafter as possible.

Item 1. Description of obligations

As to each issue of primary obligations of the Bank which is to be distributed, furnish the following information:

- (a) The title and date of the issue.
- (b) The interest rate and interest payment dates.
- (c) The maturity date or, if serial, the plan of serial maturities. If the maturity of the obligation may be accelerated, state the circumstances under which it may be so accelerated.
- (d) A brief outline of (1) any redemption provisions and (2) any amortization, sinking fund or retirement provisions, stating the annual amount, if any, which the Bank will be under obligation to apply for the satisfaction of such provisions.
- (e) If secured by any lien, the kind and priority thereof, and the nature of the property subject to the lien; if any other indebtedness is secured by an equal or prior lien on the same property, state the nature of such other liens.
- (f) If any obligations issued or to be issued by the Bank will, as to the payment of interest or principal, rank prior to the obligations to be distributed, describe the nature and extent of such priority.
- (g) Outline briefly any provisions of the governing instruments under which the terms of the obligations to be distributed may be amended or modified by the holders thereof or otherwise.
- (h) Outline briefly any other material provisions of the governing instruments pertaining to the rights of the holders of the obligations to be distributed or pertaining to the duties of the Bank with respect thereto.
- (i) The name and address of the fiscal or paying agent of the Bank, if any.

Item 2. Distribution of obligations

- (a) Outline briefly the plan of distribution of the obligations and state the amount of the participation of each principal underwriter, if any.
- (b) Describe any arrangements known to the Bank or to any principal underwriter named above designed to stabilize the market for the obligations for the account of the Bank or the principal underwriters as a group and indicate whether any transactions have already been effected to accomplish that purpose.

(c) Describe any arrangements for withholding commissions, or otherwise, to hold each underwriter or dealer responsible for the distribution of his participation.

Item 3. Distribution spread

The following information shall be given, in substantially the tabular form indicated, as to all obligations which are to be offered for cash (estimate, if necessary):

	<i>Price to the public</i>
Per unit-----	
Total-----	
	<i>Selling discounts and commissions</i>
Per unit-----	
Total-----	
	<i>Proceeds to the bank</i>
Per unit-----	
Total-----	

Item 4. Discounts and commissions to sub-underwriters and dealers

State briefly the discounts and commissions to be allowed or paid to dealers. If any dealers are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice, without giving the additional amounts to be so paid.

Item 5. Other expenses of distribution

Furnish a reasonably itemized statement of all expenses of the Bank in connection with the issuance and distribution of the obligations, except underwriters' or dealers' discounts and commissions.

Instruction. Insofar as practicable, the itemization shall include transfer agents' fees, cost of printing and engraving, and legal and accounting fees. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates, designated as such, shall be given.

Item 6. Application of proceeds

Make a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds to the Bank from the obligations are to be used, and state the approximate amount to be used for each such purpose.

Item 7. Exhibits to be furnished

The following documents shall be attached to or otherwise furnished as a part of the report:

- (a) Copies of the constituent instruments defining the rights evidenced by the obligations.
- (b) Copies of an opinion of counsel, in the English language, as to the legality of the obligations.
- (c) Copies of all material contracts pertaining to the issuance or distributions of the obligations, to which the Bank or any principal underwriter of the obligations is or is to be a party, except selling group agreements.
- (d) Copies of any prospectus or other sales literature to be provided by the Bank or any of the principal underwriters for general use in connection with the initial distribution of the obligations to the public.

Because of the limited applicability of Part 286 (Regulation IA), on which the views and comments of the Bank have been received and considered, the Commission finds that notice and procedure pursuant to section 4 of the Administrative Procedure Act are unnecessary.

The foregoing action of the Commission shall become effective upon publication, October 25, 1960.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

OCTOBER 25, 1960.

[F.R. Doc. 60-10212; Filed, Oct. 31, 1960;
8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

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

Tolerance for Residues of Sodium o-Phenylphenate

A petition was filed with the Food and Drug Administration by the Dow Chemical Company, Midland, Michigan, requesting the establishment of a tolerance for residues of sodium o-phenylphenate, expressed as o-phenylphenol, in or on sweetpotatoes at 15 parts per million.

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

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR 120.129) are amended by adding sweetpotatoes to the list of raw agricultural commodities for which tolerances have been established. Paragraph designations are deleted to facilitate the insertion of new tolerances. As amended § 120.129 reads as follows:

§ 120.129 Tolerances for residues of sodium o-phenylphenate.

Tolerances are established as follows for residues of sodium o-phenylphenate, expressed as o-phenylphenol, from post-harvest application:

125 parts per million in or on cantaloups, of which not more than 10 parts per million shall be in the edible portion.
25 parts per million in or on apples, pears.

20 parts per million in or on peaches.
15 parts per million in or on sweetpotatoes.

10 parts per million in or on citrus citron, grapefruit, kumquats, lemons, limes, oranges, pineapple, tangelos, tangerines.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum of brief in support thereof. All documents shall be filed in quintuplicate.

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

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

Dated: October 25, 1960.

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

[F.R. Doc. 60-10221; Filed, Oct. 31, 1960;
8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC CONTAINING DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN CONTAINING DRUGS

Dimethoxyphenyl Penicillin Sodium

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; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500, 25 F.R. 8625), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 141a, 146, 146a) are amended as follows:

1. Part 141a is amended by adding thereto the following new section:

§ 141a.103 Dimethoxyphenyl penicillin sodium (sodium-2,6-dimethoxyphenyl penicillin).

(a) *Potency.* Use the dimethoxyphenyl penicillin sodium working standard as the standard of comparison, and proceed as directed in § 141a.1, except that:

(1) *Plate assay.* (i) Prepare a stock solution containing 1,000 micrograms per milliliter. Prepare the standard

curve by further diluting this stock solution, using 1 percent phosphate buffer, pH 6.0, to final concentrations of 6.4, 8.0, 10.0, 12.5 and 15.6 micrograms per milliliter. The 10.0 micrograms per milliliter concentration is the reference concentration.

(ii) Determine the inoculum of the *Staphylococcus aureus* suspension to be used for the seed layer by adding varying volumes of the standardized suspension to 100-milliliter volumes of the seed agar. Run test plates with the different inocula and the dimethoxyphenyl penicillin sodium reference concentration. Select as the optimum inoculum the one that results in the clearest and best defined zones of inhibition (usually between 0.3 and 1.0 milliliter per 100 milliliters of seed agar).

(2) *Iodometric assay.* If the iodometric assay is used, use a solution containing 1.0 milligram per milliliter.

If it is packaged for dispensing, its potency is satisfactory if the container contains not less than 90 percent or more than 115 percent of the number of milligrams that it is represented to contain.

(b) *Sterility.* Proceed as directed in § 141a.2, adding sufficient penicillinase to inactivate the penicillin (approximately 6,000 Levy units of penicillinase per tube) in the test for bacteria.

(c) *Pyrogens.* Proceed as directed in § 141a.3, except use sodium chloride injection as the diluent and inject 1.0 milliliter per kilogram of a solution containing 20 milligrams per milliliter.

(d) *Toxicity.* Proceed as directed in § 141a.4, except use sodium chloride injection as the diluent and inject 0.5 milliliter of a solution containing 100 milligrams per milliliter.

(e) *Moisture.* Proceed as directed in § 141a.26 (e).

(f) *pH.* Proceed as directed in § 141a.5 (b), using an aqueous solution containing 10 milligrams per milliliter.

(g) *Crystallinity.* Proceed as directed in § 141a.5 (c).

(h) *Dimethoxyphenyl penicillin content.* Place a 200-milligram sample in a 100-milliliter volumetric flask. Dissolve and make to volume with distilled water. Remove a 5-milliliter aliquot and dilute to 50 milliliters with distilled water. Determine the absorbance at 280 millimicrons, using a suitable ultraviolet spectrophotometer and quartz 1-centimeter cells. Set the instrument at zero absorbance with distilled water. If a recording spectrophotometer is used, record the ultraviolet absorption spectrum from 250 millimicrons to 300 millimicrons. If a nonrecording spectrophotometer is used, determine the absorbance (on a solution containing 10 milligrams per 100 milliliters) at the 280-millimicron absorption peak. (The exact position of the peak should be determined for the particular instrument used.) Calculate the absorptivity, "a." Repeat the procedure, using the dimethoxyphenyl penicillin sodium standard.

Percent dimethoxyphenyl penicillin content
= $\frac{a(\text{sample})}{a(\text{standard})} \times 100$

(i) *Identity.* Use the sample solution prepared as described in paragraph (h)

of this section and determine the absorbancies at the absorption maximum at 280 millimicrons and at the absorption minimum at 264 millimicrons.

$$\frac{a(280 \text{ millimicrons})}{a(264 \text{ millimicrons})} = 1.30 \text{ to } 1.45$$

§ 146.1 [Amendment]

2. Section 146.1. *Definitions and interpretations* is amended as follows:

a. In paragraph (b) *Definitions of master standards*, subparagraph (1) is amended by adding the following new sentence at the end of the subparagraph: "The term 'dimethoxyphenyl penicillin sodium master standard' means a specific lot of dimethoxyphenyl penicillin sodium that is designated by the Commissioner as the standard of comparison in determining the potency of the dimethoxyphenyl penicillin sodium working standard."

b. In paragraph (c) *Definitions of the terms "unit" * * **, subparagraph (2) is amended by adding thereto the following new subdivision:

(viii) The term "microgram" applied to dimethoxyphenyl penicillin means the dimethoxyphenyl penicillin activity (potency) contained in 1.105 micrograms of the dimethoxyphenyl penicillin sodium master standard.

c. In paragraph (d) *Definitions of working standards*, subparagraph (1) is amended by adding thereto the following new subdivision:

(v) The term "dimethoxyphenyl penicillin sodium working standard" means a specific lot of a homogenous preparation of dimethoxyphenyl penicillin sodium.

3. Part 146a is amended by adding thereto the following new section:

§ 146a.15 *Dimethoxyphenyl penicillin sodium (sodium-2,6-dimethoxyphenyl penicillin)*.

(a) *Standards of identity, strength, quality, and purity.* Dimethoxyphenyl penicillin sodium is the crystalline monohydrated sodium salt of 2,6-dimethoxyphenyl penicillin. It is so purified and dried that:

- (1) It contains not less than 815 micrograms of the free acid of dimethoxyphenyl penicillin per milligram.
- (2) It is sterile.
- (3) It is nonpyrogenic.
- (4) It is nontoxic.
- (5) Its moisture content is not more than 6.0 percent.
- (6) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 5.0 and not more than 7.5.
- (7) Its dimethoxyphenyl penicillin content is not less than 90 percent.

(b) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U.S.P., and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. In case it is packaged for dispensing, it shall be in im-

mediate containers of colorless transparent glass. Each such container shall contain 1 gram.

(c) *Labeling.* Each package shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

- (i) The batch mark.
- (ii) The quantity of dimethoxyphenyl penicillin in the container.

(iii) The statement "Expiration date -----," the blank being filled in with the date that is 24 months after the month during which the batch was certified: *Provided, however,* That such expiration date may be omitted from the immediate container if it contains a single dose and it is packaged in an individual wrapper or container.

(iv) The statement "For manufacturing use," "For repacking," or "For manufacturing use or repacking," when packaged for repacking or for use as an ingredient in the manufacture of another drug, as the case may be.

(v) The statement "Caution: Federal law prohibits dispensing without prescription."

(2) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for its use by practitioners licensed by law to administer such drug.

(ii) A statement that solutions prepared from the drug should be stored under refrigeration and used within 24 hours.

(d) *Request for certification, check tests and assays; samples.* (1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the number of milligrams in each package, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed by results of tests and assays made by him on the batch for potency, sterility, toxicity, pyrogens, moisture, pH, dimethoxyphenyl penicillin content, crystallinity, and identity.

(2) If such batch is packaged for dispensing, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

- (i) For all tests except sterility: One immediate container for each 5,000 immediate containers in such batch, but in no case less than 10 immediate containers.
- (ii) For sterility testing: 10 immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals through the entire time of packing the batch that the quantities packaged during the intervals are approximately equal.

(3) If such batch is packaged for repacking or for use as an ingredient in the manufacture of another drug, such person shall submit with his request an accurately representative sample of the batch, consisting of the following:

(i) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(ii) For sterility testing: 10 packages, each containing approximately 300 milligrams.

Each such package shall be packaged in accordance with the requirements of paragraph (b) of this section.

(e) *Fees.* The fees for the services rendered with respect to each batch under the regulations in this section shall be:

(1) \$5.00 for each immediate container in the samples submitted in accordance with paragraph (d) (2) (i) and (3) (i) of this section; \$10.00 for all containers submitted in accordance with paragraph (d) (2) (ii) or (3) (ii) of this section.

(2) If the Commissioner considers that investigations other than examination of such immediate containers are necessary to determine whether or not such batch complies with the requirements of § 146.3 of this chapter for the issuance of a certificate, the cost of such investigations.

The fees prescribed by subparagraph (1) of this paragraph shall accompany the request for certification, unless such fees are covered by an advance deposit maintained in accordance with § 146.8(d) of this chapter.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the new antibiotic drug dimethoxyphenyl penicillin sodium has been found to be safe and efficacious for use and it would be contrary to public interest to delay providing for its certification.

Effective date. This order shall become effective on the date of signature.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: October 25, 1960.

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

[F.R. Doc. 60-10222; Filed, Oct. 31, 1960; 8:47 a.m.]

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Antibiotic Sensitivity Discs

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357), and the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education and Welfare (23 F.R. 9500, 25 F.R. 5611), § 147.1(b) (3) is amended to read as follows:

§ 147.1 *Antibiotic sensitivity discs; tests and methods of assay; potency.*

* * * * *

(b) * * *
(3) *If chloramphenicol or chlortetracycline or tetracycline is used.* Prepare a suspension as directed in § 141d.301(a) (5) of this chapter.

Notice and public procedure are not necessary prerequisites to the promulgation of this order since the amendment is procedural in nature, and made necessary by a prior amendment to the regulation previously cross-cited.

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

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 857)

Dated : October 25, 1960.

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

[F.R. Doc. 60-10223; Filed, Oct. 31, 1960;
8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER E—POST SERVICES

PART 855—MOTION PICTURE SERVICES

Sale or Release of Motion Picture and Sound Track Footage

Sections 855.1 to 855.6 are revised as follows:

Sec.	
855.1	Purpose.
855.2	Definitions.
855.3	Sale, use, and release of stockfootage.
855.4	Responsibility.
855.5	Requesting stockfootage.
855.6	Established fees.
855.7	Requests exempt from fees.
855.8	Collection of fees.

AUTHORITY: §§ 855.1 to 855.8 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply sec. 501, 65 Stat. 290; 5 U.S.C. 140.

SOURCE: AFR 95-12, April 14, 1960.

§ 855.1 Purpose.

Sections 855.1 to 855.8 state the policy on the sale, use, and release of unclassified Air Force motion picture stockfootage and the dissemination of classified stockfootage. It does not cover the sale of prints made from completed Air Force motion pictures. Nor does it cover the use of stockfootage in films produced for the Air Force.

§ 855.2 Definitions.

For the purpose of §§ 855.1 to 855.8 the following definitions apply:

(a) **Stockfootage.** Specific scenes or sound tracks from Air Force film footage intended for use in completing a motion picture production, or for use in engineering analysis, intelligence, training, or for other miscellaneous purposes.

(b) **Service.** The search of film files, screening of stockfootage, selection of scenes, actual reproduction of scenes or sound track required, and shipping.

§ 855.3 Sale, use, and release of stockfootage.

(a) Sale or release of reproductions from unclassified stockfootage is authorized within the provisions of §§ 855.1 to 855.8. Classified stockfootage

may be disseminated only when an official requirement exists, when §§ 805.1 to 805.17 of this chapter are complied with, and when there is no limitation affecting the specific release imposed by the contributing military activity. The sale or release of the original negative is prohibited.

(b) Activities contributing film to the USAF Motion Picture Film Depository will insure that any limitation desired on further dissemination is clearly stated in a notation placed on the film.

(c) Requests for classified stockfootage received from foreign governments or their representatives will be sent for approval to Headquarters USAF (AFCIN).

(d) Recipients will not use stockfootage to show by implication or otherwise that the Air Force indorses a product.

(e) Exclusive rights to stockfootage may not be claimed by any other agency or person.

(f) Waiver of proprietary and privacy rights will not pass with the sale or release of stockfootage unless these rights and the right of transfer are owned by the Air Force.

(g) The sale of stockfootage which is available from commercial motion picture sources is prohibited.

(h) Film received from Air Force contractors will not be released or sold to competitive contractors unless the Air Force contracting officer having jurisdiction over the contract determines that it is in the best interest of the Air Force.

(i) There are currently in existence agreements formalized between the Air Force and certain other Government agencies providing for photographic and related services. If such agreements are not in accordance with §§ 855.1 to 855.8 regarding the release of stockfootage to these agencies, the provisions of the formal agreement will apply.

§ 855.4 Responsibility.

The USAF Motion Picture Film Depository will provide the services stated herein and such other services as the Commander, Air Photographic and Charting Service directs.

§ 855.5 Requesting stockfootage.

(a) **Preliminary inquiry.** Before submitting his request, a person may obtain preliminary information on available stockfootage in general subject areas for which access has been granted. Such inquiries to the USAF Motion Picture Film Depository do not constitute a formal request.

(b) **Release of unclassified stockfootage to public.** The person requesting unclassified stockfootage for release to the public will:

(1) Forward his request to: Secretary of the Air Force (SAFOI), Wash. 25, D.C.

(2) Include in each request a film sequence outline or script clearly indicating those scenes for which he desires stockfootage.

(3) State preference for type of film and the approximate number of screen feet required.

When notified by Headquarters USAF that his request is favorably considered, the requester may communicate direct with the USAF Motion Picture Film De-

pository to arrange for selecting the stockfootage.

(c) **Unclassified stockfootage for internal use.** The person requesting unclassified stockfootage for use within the Federal Government will:

(1) Forward his request to: 1350th Motion Picture Squadron, Attn: USAF Motion Picture Film Depository, Wright-Patterson, AFB, Ohio.

(2) Include in each request a statement of intended use.

(3) State preference for the type of film and the approximate number of screen feet required.

NOTE: An Air Force contractor requiring unclassified stockfootage to meet film production requirements specified in an Air Force contract will forward his request through the Air Force contracting officer having jurisdiction over the contract. If stockfootage is for a film production intended for public release, he must submit his request in accordance with paragraph (b) of this section.

(d) **Requests for classified stockfootage by Air Force contractor.** An Air Force contractor requiring classified stockfootage will forward his request for review and approval through the Air Force contracting office having jurisdiction over the contract involved.

(e) **Other requests for classified stockfootage.** The person outside the Air Force requesting classified stockfootage will:

(1) Forward his request to: Hq USAF (AFOOP-SV-MP), Wash. 25, D.C.

(2) Include a statement of intended use.

When notified by Headquarters USAF that his request is favorably considered, the requester may communicate direct with the USAF Motion Picture Film Depository to arrange for selecting the stockfootage.

(3) If he is not in Executive Branch of the Government, furnish assurance that the classified information will be handled in accordance with §§ 805.1 to 805.17 of this chapter. He must also explain the measures he will take to safeguard the information.

§ 855.6 Established fees.

(For still photography fees, see §§ 856.1 to 856.7 of this chapter.)

The following fees are charged for stockfootage and service:

16mm or 35mm black and white unedited footage and/or optical sound track, per foot.....	\$0.10
Color unedited footage:	
16mm, per foot.....	.20
16mm, inter-negative.....	.25
35mm, per foot:	
Viewing or release print, each.....	.25
Color inter-positive, each.....	.55
Color inter-negative, each.....	.55
Magnetic Tape (per foot):	
16mm (Direct Dubb), each.....	.05
35mm (Direct Dubb), each.....	.05
Searching (including direct overhead)—Each hour or fraction thereof (per hour).....	5.00

All film materials, such as masters, specially prepared in order to furnish a requested end product will be charged for on a per foot basis.

Minimum charge (including stock search) per order..... \$10.00

§ 855.7 Requests exempt from fees.

To the extent that funds are available, those requests received from the sources and for services listed in this section may be exempt from payment of fees, provided that furnishing such service does not hamper the mission of the furnishing agency, is consistent with §§ 855.1 to 855.8 and is accomplished during normal work schedules.

(a) *Sources.* (1) Department of Defense agencies and other departments of the Federal Government for use in furtherance of approved departmental activities.

(2) Members of Congress for use in furtherance of official government activities.

(3) Federal, State, territorial, county, or municipal government, or an agency thereof, carrying on a function related to, or in furtherance of, an Air Force or other Department of Defense objective.

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

(5) Members of the Armed Forces in a casualty status, or their next of kin or authorized representative, when requested stockfootage relates to source of casualty.

(b) *Services.* (1) Service which is occasional and incidental (including a request from resident of a foreign country), when it is determined that a fee would be inappropriate in such case.

(2) Service determined by the Office of Information, Office of the Secretary of the Air Force, to be in the best interest of the Air Force.

(3) Service which is furnished free in accordance with statutes or Executive Orders.

(4) Service that the Federal Government will ultimately pay for.

§ 855.8 Collection of fees.

Payments will be accepted in cash, United States money orders, certified checks, or their equivalent. Negotiable instruments will be drawn payable to the Treasurer of the United States. When appropriate, fees will be collected before release of stockfootage. Searching fees will be collected whether or not stockfootage is ordered as a result of such search.

R. J. PUGH,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 60-10232; Filed, Oct. 31, 1960;
8:49 a.m.]

PART 856—PHOTOGRAPHY

**Sale of Aerial and Documentary Still
Photography**

Sections 856.1 to 856.6 are revised as follows:

- Sec. 856.1 Purpose.
- 856.2 Sale of photographs.
- 856.3 To whom sold.
- 856.4 Policy covering sales.
- 856.5 Furnishing photographs free of charge.
- 856.6 Schedule of fees.
- 856.7 Collection of fees.

AUTHORITY: §§ 856.1 to 856.7 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply sec. 501, 65 Stat. 290; 5 U.S.C. 140.

SOURCE: AFR 95-4, February 25, 1960.

§ 856.1 Purpose.

Sections 856.1 to 856.7 govern the sale of unclassified Air Force aerial and documentary still photographs and provide guidance for furnishing materials free of charge; furnish a schedule of fees; and outline collection procedures.

§ 856.2 Sale of photographs.

(a) Only the USAF Central Print and Index Library is authorized to sell official Air Force aerial mapping and reconnaissance photographs.

(b) Any Air Force activity which has custody of still documentary negatives and transparencies may sell copies in accordance with this part.

§ 856.3 To whom sold.

(a) Members and agencies of the Federal Government.

(b) The public, which includes any person or group of persons, such as associations, organizations, partnerships, corporations, businesses, municipalities, counties, States, or territorial governments.

§ 856.4 Policy covering sales.

(a) Authorized for sale are reproductions or prints and duplicate negatives made from existing black and white negatives; duplicate color negatives and duplicate color transparencies from existing counterpart color material; and Printon color prints made from existing color transparencies.

(b) Sale of photographs is discouraged. When they are sold, the number of prints sold from each negative will be limited to the minimum necessary.

(c) Selling prints or furnishing related photographic services which compete with commercial organizations is prohibited.

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

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

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

U.S. AIR FORCE PHOTO

Released by ----- Air Force Base

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

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

(i) Before releasing prints to a purchaser, the commander of the Air Force activity making the sale will insure that the purchaser understands the restrictions outlined herein.

(j) Release of aerial photographs of foreign countries is subject to prior ap-

proval of the country concerned; persons desiring such approval should apply to the country's Embassy. Many countries now have their own aerial photographs and can furnish information on their availability.

§ 856.5 Furnishing photographs free of charge.

Photographs required to conduct official Department of Defense business will be furnished without charge. To the extent that work-load and funds permit, prints requested from the following sources and for the purposes specified will be furnished without charge:

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

(b) Members of Congress for use in official governmental activities.

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

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

(e) Prints which may be required in accordance with statutes or executive orders.

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

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

§ 856.6 Schedule of fees.

All prices are subject to change without notification.

(a) Pictorial and documentary photographs (includes prints of USAF aircraft, guided missiles, ground equipment, personnel, historical photographs of USAF installations, record-establishing flights or projects, etc.) will be furnished according to the following limitations and fees:

(1) Photographs are only available in print sizes indicated.

(2) Color photographs can be furnished only when available.

(3) Glossy prints normally will be furnished unless otherwise specified. If double weight, matte finish prints are desired, \$0.05 should be added to the price of each black and white print.

	Each
Black & White (prints)..... 8" x 10".....	\$0.55
Color (Printon Prints from 8" x 10" Transparency).....	4.00
Duplicate Color Transparency. 4" x 5".....	5.00
Duplicate Color Transparency. 8" x 10".....	10.00
Duplicate Ektacolor Negative. 4" x 5".....	5.00
Duplicate Ektacolor Negative. 8" x 10".....	10.00

NOTE: Ektacolor negatives and color transparencies can be used by a purchaser to obtain ektacolor paper prints or dye transfer prints from commercial sources.

(b) Photostat copies of records (8½" x 10") pertaining to documentary or historical events can be made available at \$0.20 each.

(c) Aerial photographs (include verticals and obliques of ground areas or subjects).

RULES AND REGULATIONS

(1) Contact print size is determined by the size of the original negative and the purchaser cannot exercise a choice as to scale or size.

(2) All aerial photographs available for sale are black and white.

(3) Glossy prints will be furnished unless otherwise specified; however, no additional charge will be made for double weight, semi-matte finish.

Size	No. of separate photographs	Price each
4" x 5½", 5" x 7"	1 to 100	\$0.70
7" x 9" or 9" x 9"	101 to 1,000	.55
	Over 1,000	.50
9" x 18"	1 to 100	1.40
	101 to 1,000	1.10
	Over 1,000	1.00

(d) Mosaics or photographic indexes:

(1) Mosaics or photographic indexes are not prepared for all areas of U.S. Air Force photographic coverage. Each area of interest will be reviewed and the purchaser advised accordingly.

(2) Mosaics and indexes vary in size, but are generally 20" x 24".

(3) The price per mosaic or index print is \$1.20.

(e) Aerial photographic information material (including individual plot maps, coverage diagrams, composite prints, etc.) when available, will be charged for according to the labor and time involved in production. Hand-drawn plots and sketches will be charged for at the rate of \$2.00 minimum for an individual item or \$2.00 for each hour of labor when more than one item is required.

§ 856.7 Collection of fees.

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

R. J. PUGH,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 60-10233; Filed, Oct. 31, 1960;
8:49 a.m.]

SUBCHAPTER J—AIR FORCE PROCUREMENT INSTRUCTIONS

PART 1007—CONTRACT CLAUSES

Miscellaneous Amendments

The following amendments are issued to Part 1007:

1. In Subpart A—Clauses for Fixed-Price Supply Contracts: In § 1007.104-26 (25 F.R. 9505, October 5, 1960) change the word "program" in the text, to "title."

2. Subpart C—Clauses for Fixed-Price Research and Development Contracts:
a. In § 1007.302-1, the words "without limitation" are added in the third line of paragraph (d), between "including" and "any studies."

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

b. Instruction No. 5 (25 F.R. 9508, October 5, 1960) is revised to read: "5. Sections 1007.304-13 to 1007.304-16 are deleted."

3. In Subpart U—Clauses for Fixed-Price Nonpersonal Service Contracts:

a. Instruction No. 5 (25 F.R. 9509, October 5, 1960) is revised to read: "5. Sections 1007.2104-11 and 1007.2104-12 are revised to read as follows:"

2. Instruction No. 9 (25 F.R. 9509, October 5, 1960) is revised to read as follows: "9. Section 1007.2105-1 is revised to read as follows:"

R. J. PUGH,
Colonel, U.S. Air Force, Deputy
Director of Administrative
Services.

[F.R. Doc. 60-10234; Filed, Oct. 31, 1960;
8:49 a.m.]

Title 50—WILDLIFE

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—AID TO FISHERIES

PART 255—FISHING VESSEL MORTGAGE INSURANCE PROCEDURES

Definition of "Actual Cost" of a Vessel

On page 8324 of the FEDERAL REGISTER of August 31, 1960, there was published a

notice and text of a proposed amendment to Part 165, Title 50, Code of Federal Regulations. Part 165 now has been changed to Part 255 in keeping with the format of the revised edition of 50 CFR—Wildlife, published in the FEDERAL REGISTER of September 1, 1960. The purpose of the amendment is to change the definition of "actual cost" on which the amount of mortgage insurance may be based so as to exclude any cost paid by any Government Agency.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment. No comments, suggestions or objections have been received, and the proposed amendment is hereby adopted without change. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

As so amended paragraph (g) of § 255.2 reads as follows:

§ 255.2 Definitions.

* * * * *

(g) Actual Cost. The term "actual cost" of a vessel as of any specified date means the aggregate as determined by the Secretary of (1) all amounts paid by or for the account of the mortgagor or borrower on or before that date, and (2) all amounts which the mortgagee is then obligated to pay from time to time thereafter under a contract or contracts for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting and equipping) of the vessels, provided such contract or contracts shall include, in addition to profit, only those items customarily included in such contract or contracts as contractor's items of cost, except where the Secretary finds that those charges are unfair or unreasonable; provided, however, that if any portion of the cost of the vessel is paid by any Government Agency as a subsidy, or otherwise, the amount of such payment will not be included in the "actual cost" as determined by the Secretary.

ROSS LEFFLER,
Acting Secretary of the Interior.

OCTOBER 26, 1960.

[F.R. Doc. 60-10210; Filed, Oct. 31, 1960;
8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

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

Notice of Filing of Petition for Establishment of Tolerances for Residues of Toxaphene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (1), 68 Stat. 512; 21 U.S.C. 346a(d) (1)), notice is given that a petition has been filed by Hercules Powder Company, Wilmington 99, Delaware, proposing the establishment of a tolerance of 7 parts per million for residues of toxaphene in or on each of the raw agricultural commodities collards, kale, and spinach.

The analytical method proposed in the petition for determining residues of toxaphene is the method for total chlorine described in *Agricultural and Food Chemistry*, Vol. 2, page 1226, November 24, 1954, by Phillips and De Benedictis.

Dated: October 25, 1960.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological
and Physical Sciences.

[F.R. Doc. 60-10224; Filed, Oct. 31, 1960;
8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 994]

[Docket No. AO-300-A1]

MILK IN COLORADO SPRINGS-PUEBLO 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 De-

partment of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Colorado Springs-Pueblo 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 Colorado Springs, Colorado, on June 21-22, 1960, pursuant to notice thereof which was issued May 31, 1960 (25 F.R. 4919).

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

1. The Class I price;
2. The Class II price;
3. Pool plant requirements and clarification of plant definitions;
4. Classification of milk transferred or diverted to nonpool plants;
5. Limitations on diversions;
6. Location adjustments to producers;
7. Administrative charges to partially regulated handlers; and
8. Allocation of packaged sour cream received from plants where it has been classified and priced as Class I under another Federal order.

Separate consideration was given earlier to the Class I price issue in order to provide a Class I price provision in the order beyond its expiration date of July 1960. A recommended decision on the matter was issued July 7, 1960 (25 F.R. 6483), a final decision on July 18, 1960 (25 F.R. 6926), and an order amending the order on July 29, 1960 (25 F.R. 7203).

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. The provisions for pricing Class II milk should not be changed.

Class II milk under the Colorado Springs-Pueblo order includes all skim milk and butterfat used in the production of nonfluid dairy products, skim dumped, livestock feed and allowable plant losses. Since the inception of the order, Class II milk has been priced at the higher of the average paying prices of selected Wisconsin and Michigan condenseries or a butter-powder formula price. For the months of March through July, 20 cents is deducted from this price.

While proposals to review the Class II pricing provisions were made in the notice of hearing by Colorado producers' cooperatives and five handlers, the only testimony in favor of a change was

offered by a Utah producers' cooperative, Cache Valley Dairy Association, which proposed elimination of the 20-cent reduction in the March-July period.

Except for the production of ice cream and cottage cheese by certain distributors in the market, the nearest manufacturing facilities available to producers for receiving milk that cannot be used by the distributing plants for fluid sales are located in Larkspur, Fort Collins, Johnstown, and Brush, Colorado, which are 30, 126, 108, and 158 miles, respectively, from the El Paso County Courthouse in Colorado Springs. The producer associations representing Colorado producers allege that handlers in the market are reluctant to accept any milk from producers in excess of their plant requirements. As a result, these associations have been required to handle the disposition of substantial amounts of milk during the flush season by transporting such milk to the distant manufacturing plants. Costs of transporting such reserve milk supplies to the manufacturing plants are borne by the associations at rates varying from 30 to 75 cents per hundredweight, depending upon distance and volume handled. The 20-cent reduction in the Class II price during the flush months of March through July recognizes the fact that during this period substantial quantities of milk must be moved to the distant nonpool plants for manufacture.

While it is probably true that milk for manufacturing use delivered to the Cache Valley Dairy Association plant in Smithfield, Utah, has a value equal to the basic formula price in all months of the year, it is practicable to deliver only a small portion of the present production for the Colorado Springs-Pueblo market to this plant. There is no evidence to indicate that the level of the Class II price in the market has encouraged handlers to expand their manufacturing facilities or to seek additional supplies of milk for manufacturing use. In view of the limited experience under the order to date, no change should be made in the Class II price structure at this time.

2. The pool plant definition should be revised.

The present order defines a distributing pool plant as one in which fluid milk products are pasteurized or packaged and from which 20 percent or more of the total Class I sales are made on routes in the marketing area. A supply pool plant is defined as a plant from which during the month not less than 40 percent of its dairy farm supply of Grade A milk is moved to distributing pool plants. Any supply plant which qualifies as a pool plant in each of the months of September through February of any year is a pool plant for the following months of March through August unless written

request for nonpool status is furnished in advance to the market administrator.

One producer association proposed that shipping requirements for supply pool plants be 50 percent of receipts during August through January and be 30 percent during other months. Several associations supported a requirement that distributing pool plants have 50 percent or more Class I utilization of approved receipts.

The purpose of pool plant requirements is to distinguish which plants are associated with the market to the extent that they should participate in the market-wide pool.

Under the present distributing pool plant requirements, the Class I sales of a plant might constitute only a small proportion of the milk received from producers, with the major portion designed for manufacturing use. However, all of the milk could be pooled. Plants could also be qualified as supply pool plants by making deliveries to such plants whether or not the milk was needed or used for Class I purposes. To distinguish those plants primarily engaged in processing and distribution of fluid milk from plants that must qualify for pool status on the basis of bulk shipments to the market, it should be required that 50 percent or more of the receipts of Grade A milk be disposed of as Class I milk if such plant is to qualify as a distributing pool plant. The present requirement that 20 percent of such Class I disposition be on routes in the marketing area should also apply.

No change should be made in the percentage of its receipts of Grade A milk that a supply plant must ship to a distributing pool plant to qualify for pool plant status. The 40 percent shipping requirement presently provided in the order has apparently operated satisfactorily. The only plant that has qualified as a supply plant has been that of the Pueblo Dairymen's Cooperative, Inc., which has a long and close association with the market. There is no evidence that any other supply plant has made substantial shipments to pool distributing plants without achieving pool plant status.

No seasonal variation should be made in the shipping requirement for supply plants. While distributing plants need a smaller proportion of the receipts of supply plants in the spring when production is relatively high than they do in the fall when milk production is relatively low, such seasonal variations are accommodated adequately in the present provision that permits the automatic pooling of milk of any supply plant during the months of March through August if such plant qualified as a pool plant during the previous months of September through February.

A distributing pool plant should be defined as a plant (1) in which fluid milk products are pasteurized or packaged, (2) from which an amount equal to 50 percent or more of receipts of Grade A milk from dairy farmers and from other pool plants is disposed of as Class I milk, and (3) from which 20 percent or more of the total Class I sales are on routes in the marketing area. A supply pool plant should be any plant from which

during the month not less than 40 percent of its dairy farm supply of Grade A milk is moved to a distributing pool plant(s). Any supply plant which has qualified as a pool plant in each of the months of September through February in any year should be a pool plant for each of the following months of March through August unless written request for nonpool plant status for such March-August period is furnished in advance to the market administrator. Any supply plant withdrawn from pool plant status may only be reinstated for any month in which it fulfills the requirements of shipping not less than 40 percent of its receipts of Grade A milk from producers to a distributing pool plant(s).

Proposals to define "distribution point" and "plant" should not be adopted. The most significant effect of such proposals would have been to insure that reloading operations, wherein milk is transferred from one road vehicle to another, could under no circumstances be considered a part of the operation of a plant located at the point at which such reloading takes place. Where milk is picked up at the farm in small pick-up tanks and transferred to a transport tanker at a plant location, all factors concerning such movements must be considered in determining whether it should be treated as a delivery direct from the farm or through the intermediate plant at which the transfer was made. The proposed definition would not provide an adequate basis for this determination.

3. The area within which milk may be disposed of to nonpool plants as Class II milk should include Cache and Weber Counties, Utah. The condition under which Class II utilization in nonpool plants may be established should be modified.

The present order provides that if a fluid milk product in bulk form is transferred or diverted to a nonpool plant located more than 200 miles from the El Paso County Courthouse in Colorado Springs, it is automatically classified as Class I milk. Within the 200-mile limit such transfers may be Class II milk if it can be shown that an equivalent volume has been manufactured into Class II products.

Milk of 30-40 dairy farmers whose farms are located in northern Utah has been priced under the Colorado Springs-Pueblo order since January 1960 as milk of producers delivering to a pool plant in Denver which was supplying the Fort Carson military installation. There are milk manufacturing facilities in Cache and Weber Counties, Utah, to which milk of these producers could be diverted for Class II use when not needed for Class I use. Under present provisions of the order, such diversion can only be as Class I milk. Provisions should be made for diversion as Class II milk, under the conditions and limitations hereafter discussed, to plants in these counties.

Nonpool plants in Cache and Weber Counties, Utah, to which diversion may be made, have receipts of Grade A milk, manufacturing grade milk and farm separated cream. Under the classification provisions as presently applicable to transfers or diversions within the 200-

mile limit and which would apply in Cache and Weber Counties with their inclusion in the surplus disposal area, use of an equivalent volume of milk as Class II milk at a nonpool plant would result in the pool milk transferred or diverted being priced as Class II milk. The provision should be modified so that the pool milk will share in any Class I utilization in excess of receipts of Grade A milk from farmers regularly supplying the plant. If transfers have been made from more than one pool plant or from plants regulated by other orders, the available Class I utilization should be prorated.

4. The producer definition should be revised and provision made for limiting diversion of producer milk to nonpool plants.

Under the present definition in the order, a producer means any person other than a producer-handler, who produces milk in compliance with fluid milk product requirements of a duly constituted health authority having jurisdiction within the marketing area, and whose milk is received at a pool plant or is diverted to a nonpool plant for the account of a handler. Milk so diverted is deemed to have been received by the diverting handler at the plant from which it was diverted.

Several proposals were discussed at the hearing which would either require specific association with the market to achieve producer status or limit the conditions under which a dairy farmer could retain status as a producer when his milk was diverted to a nonpool plant.

The Cache Valley Dairy Association, representing northern Utah producers, proposed that no dairy farmer who qualifies as a producer under another order should be a producer under the Colorado Springs-Pueblo order in the same month. Two Colorado associations supported a proposal that producer status be restricted to those dairy farmers whose milk production was received at a pool plant for 16 days or more in the month. By brief they also asked that producer status be denied a dairy farmer if any of his milk was received at a nonpool plant except by diversion. A diversion limit of 12 days' production in the months of August through March was advocated by the Cache Valley association. The Colorado associations proposed a 15-day limitation in all months.

Erratic changes in producer numbers since the effective date of the order indicate a need for more definite requirements of association with the market for producer status. Associations representing producers in the Great Basin and Western Colorado markets also represent producers supplying the Colorado Springs-Pueblo market. In order to avoid the possibility of the Colorado Springs-Pueblo pool carrying reserve supplies for these other Federal order markets, it is provided that a dairy farmer who qualifies as a producer under another order during the month shall not be a producer under Order No. 94. To deny producer status to any dairy farmer whose milk was received at a nonpool plant except by diversion might unduly limit access to the market.

With respect to limitation of diversion, the needs of the market can best be served if during each month of the year a producer's milk may not be diverted to a nonpool plant for more days of production than it is received at a pool plant.

The health authorities in compliance with whose requirements a dairy farmer must produce Grade A milk to be considered a producer should not be restricted to those having jurisdiction in the marketing area. The requirement that a producer must deliver milk to a pool plant each month under the diversion limitations herein provided, together with the performance requirements for pool plant status, make this requirement superfluous. While present provisions have been administered to recognize reciprocal inspection arrangements, the order language should be clarified to avoid possible conflict in interpretation.

Changes in the producer definition are included to carry out the conditions set forth in another part of this decision with respect to application of location adjustments to diverted milk.

5. Location adjustments should apply with respect to producer milk diverted to nonpool plants. Location adjustments should not apply at plants less than 200 miles from Colorado Springs.

The provision that milk may be classified as Class II milk when diverted to points in Cache and Weber Counties, Utah, more than 500 miles from the marketing area, raises an issue as to the application of location adjustments to the producer price at which producers should share in the pool when milk ordinarily delivered to a plant in or near the marketing area is diverted to nonpool plants near such producers' farms. Present provisions of the order treat milk diverted to nonpool plants as if received at the location of the pool plant from which diverted. Thus, without some change, Utah producers would receive the marketing area price for milk diverted to Utah plants without incurring the costs of transporting the milk to the vicinity of the marketing area.

The Cache Valley Dairy Association proposed that a special producer location adjustment of approximately 30 cents per hundredweight apply in such cases, but proposed no revision in other rates of location adjustment to handlers or to producers. The rates provided in the order (13.5 cents for the first 80-90 miles, plus 1.5 cents for each additional 10 miles) represent a rate of approximately 90 cents per hundredweight at points in Cache and Weber Counties.

In support of this proposal it was claimed that the Cache Valley association had devised a particularly economical method of transporting milk for their members. It was not shown, however, that rates representative of the claimed cost were used in returning to producers the Colorado Springs-Pueblo blend prices. Instead such producers have had their returns blended on an f.o.b. Utah basis with other association members supplying the Great Basin market or unregulated markets.

The location of producers' farms in relation to nonpool manufacturing plants is such that there is no saving in trans-

portation costs when producers presently supplying the market from farms in Colorado and western Kansas have their milk diverted to nonpool plants. There is rather an increase in cost which has been borne by the associations representing these producers. All manufacturing plants to which diversion of such producers' milk has been made are within 200 miles of Colorado Springs. There is, on the other hand, a substantial saving in mileage when milk of the Utah producers is diverted to plants in the area added to the surplus manufacturing area.

Utah producers and Colorado producers were in agreement that producers should, under present circumstances, receive the uniform order price without location deduction when their milk is diverted to nonpool plants within 200 miles of Colorado Springs and that a location adjustment should apply when milk is diverted to more distant plants. The rate of such adjustment was the sole issue between them, Colorado producers advocating that such adjustment be at the regular rates now specified in the order and Utah producers advocating the special rate discussed heretofore.

Rates of location adjustment and the area and milk to which they apply should be uniform, when applied either to receipts at pool plants or diversions to nonpool plants. Present rates of location adjustment represent normal hauling rates and should not be changed on the basis of the limited exception shown on this record. Milk diverted to nonpool plants should be priced at the location of the nonpool plant to which diverted. The area within which no location adjustments apply should, however, be enlarged to include points up to 200 miles from Colorado Springs, with present rates applicable at more distant plants. There are presently no supply or distribution plants associated with the market that are located more than 80 but less than 200 miles from Colorado Springs. As stated earlier in this decision, a number of nonpool manufacturing plants to which milk is diverted are located in the 80-200 mile zone. This change will permit producers who incur additional hauling costs when their milk is diverted to these plants to continue to receive the f.o.b. market price without affecting the costs of any handler.

Use of a 200-mile radius rather than one of 80 miles makes it unnecessary to continue to have mileages measured from the nearer of Colorado Springs, Pueblo or Walsenburg. It is provided that location adjustments be determined by distance from Colorado Springs, the principal population center of the market.

6. No change should be made in the obligation incurred by a nonpool handler to either the pool or to the administrative fund when such handler disposes of fluid milk products on routes in the marketing area.

The handler operating a nonpool plant has the option of paying a compensatory payment together with an administrative assessment on that milk disposed of in the marketing area, or paying any differences between the amount paid dairy farmers by such

handler and the net class use value of their milk at order prices, together with administrative assessment on all such handler's milk whether or not disposed of in the market.

A handler operating a nonpool plant under the Colorado Springs-Pueblo order proposed several changes to this provision in the hearing notice, but at the hearing supported only a lower rate of administrative assessment for nonpool handlers electing the payment comparison option for accounting to the pool.

The aggregate volume of Class I in-area sales by three nonpool plants distributing Class I milk in the Colorado Springs-Pueblo marketing area is approximately 10 percent of the total Class I sales made in the area by all handlers. Payments by these three plants for the administrative costs of the order amount to approximately 53 percent of the total. The proponent handler contended that such payments to the administrative fund are disproportionate to the volume of Class I milk distributed in the area by the nonpool plants and that fully regulated plants, more directly affected by the order, should pay a larger portion of the cost of market administration than those plants that are only partially regulated.

The proportion of in-area sales made by a handler to that of all other handlers in the market does not provide a sufficient basis for altering the rate of assessment. Regardless of the proportionate amount of Class I milk disposed of by a handler in the marketing area, the market administrator must verify receipts and utilization of all milk in a nonpool handler's plant to establish the amount of obligation under the payment comparison option provided and, therefore, all such milk should be subject to the expense of administration. Such verification includes the checking of weights and butterfat tests of receipts from dairy farmers and of products sold as well as an audit of books and records. Fully regulated plants may also have a substantial proportion of out-of-area sales and yet be assessed administrative expenses on their entire receipts.

A handler may elect the option of making payment to the pool at the difference between the Class I and Class II price with respect to only fluid milk product sales made in the marketing area. This option requires that the handler of the nonpool plant pay administrative expenses only on the volume of in-area Class I milk sales, since the need for verification will then be confined to that volume.

There is no basis for making any change in the rate of administrative assessments as presently provided in the order.

7. Sour cream manufactured from milk subject to the pricing and pooling provisions of Order No. 41 for the Chicago marketing area should be allocated directly to Class I at pool plants under the Colorado Springs-Pueblo order when such cream is received, handled and distributed in the same consumer or institutional size packages in which it was received.

A proposal to this effect was included in the hearing notice. The proposal was supported in a modified version by a Colorado Springs-Pueblo handler who planned to receive packaged sour cream from the National Cheese Company of Chicago, Illinois (a handler under the Chicago order) for distribution in the Colorado Springs-Pueblo marketing area commencing July 1960. Three producer associations of the Colorado Springs-Pueblo market opposed the modified proposal. Sour cream sales in the market at the time of the hearing, which were regularly supplied from milk of local producers, represented less than one percent of total Class I market usage.

Present provisions of this order give priority for all Class I utilization to producer milk. Receipts of sour cream priced and pooled under Order No. 41 would be allocated to Class II to the extent possible under the Colorado Springs-Pueblo order. While all cream products under the Chicago order are classified as Class II under the accounting and pricing system of the Chicago order, this class is the equivalent of the Class I classification and pricing under the accounting system of the Colorado Springs-Pueblo order.

Inasmuch as the Class I price in the Colorado Springs-Pueblo marketing area will be generally aligned with prices under other Federal orders, there is little chance that handlers in the Chicago market can achieve a substantial competitive advantage with respect to sales of packaged sour cream in this area over handlers under this order. The seasonal and daily reserves necessary to supply the exact quantities of packaged sour cream will be generally carried by the Chicago producers. Yet, under the current provisions of the Colorado Springs-Pueblo order, the seasonal and daily excess of producer milk in the market would be assigned to Class I to the extent of any receipts of packaged sour cream from the Chicago market.

Receipts of sour cream priced as Class II under Order No. 41 and disposed of in the same consumer or institutional size packages as received should be allocated to the Class I utilization of the receiving handler. Such allocation should be provided only when sour cream is not processed or packaged in the plant during the month. While the Colorado Springs-Pueblo handler proposed a provision applicable to all packaged fluid milk products and receipts from all orders, all testimony was directed to the allocation of packaged sour cream priced under Order No. 41. No basis exists to provide for movement of other products or from other orders.

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 con-

clusions 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 Colorado Springs-Pueblo 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:

1. Delete § 994.7 and substitute therefor the following:

§ 994.7 Pool plant.

A "pool plant" shall be any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempted in § 994.60 or § 994.61:

(a) Any plant, hereinafter referred to as a "distributing pool plant", (1) in which fluid milk products are pasteurized or packaged, (2) from which an amount equal to 50 percent or more of receipts of Grade A milk from dairy farmers and from other pool plants is disposed of as Class I milk, and (3) from which 20 percent or more of the total Class I sales are on routes in the marketing area; and

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month not less than 40 percent of its dairy farm supply of Grade A milk is moved to a distributing pool

plant(s). Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant for each of the following months of March through August unless written request for nonpool status for such March-August period is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

§ 994.9 [Amendment]

2. In § 994.9 delete the following sentence: "Such milk shall be considered as having been received by such cooperative association at the plant from which it was diverted."

3. Delete § 994.10 and substitute therefor the following:

§ 994.10 Producer.

"Producer" means any person, other than a producer-handler or a dairy farmer who during the current month qualifies as a producer under another Federal milk order, who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is:

(a) Received at a pool plant; or

(b) Diverted from a pool plant to a nonpool plant for the account of the handler operating the pool plant or of a cooperative association, subject to the following limitations and conditions:

(1) The days of production of such person for which milk is diverted during the month may not exceed the days of production for which milk is received at a pool plant, otherwise such person will not be considered a producer with respect to any milk diverted;

(2) For purposes of the requirements of § 994.7, milk diverted for the account of the operator of a pool plant shall be included in the receipts of the pool plant from which diverted; and

(3) For purposes of location adjustments pursuant to § 994.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted, distance to be shortest highway mileage from the El Paso County Courthouse in Colorado Springs as determined by the market administrator.

§ 994.44 [Amendment]

4. Delete § 994.44(c) and substitute therefor the following:

(c) Class I milk, if transferred or diverted as a fluid milk product in bulk to a nonpool plant located more than 200 miles, by the shortest highway distance as determined by the market administrator, from the El Paso County Courthouse, but not located in Cache or Weber Counties, Utah.

5. Delete § 994.44(e) and substitute therefor the following:

(e) Class I milk, if transferred or diverted as a fluid milk product in bulk to a nonpool plant located not more than 200 miles, by the shortest highway dis-

tance as determined by the market administrator, from the El Paso County Courthouse, or located in Cache or Weber Counties, Utah, unless the following conditions are met:

(1) The transferring handler claims Class II utilization in his report submitted pursuant to § 994.30;

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

(3) Class I utilization in the nonpool plant does not exceed the receipts of skim milk and butterfat in Grade A milk from dairy farmers. If Class I utilization exceeds such receipts, the skim milk and butterfat so transferred or diverted shall be Class I to the extent of a pro rata share of total receipts at the nonpool plant from all pool plants and from plants fully subject to other orders that are claimed as Class II utilization or as a class other than Class I under another order; and

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

§ 994.46 [Amendment]

6. Delete § 994.46(a) (3) and substitute therefor the following:

(3) Subtract the pounds of skim milk in fluid milk products received from plants regulated under another order issued pursuant to the Act, as specified:

(i) If sour cream was not processed or packaged in the pool plant during the month, subtract from the pounds of skim milk in Class I milk the pounds of skim milk in sour cream packaged in consumer or institutional size packages, classified and priced as Class II milk pursuant to Order No. 41, regulating the handling of milk in Chicago, Illinois, marketing area (Part 941 of this chapter), disposed of in the same packages as received; and

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

7. Delete § 994.52 and substitute therefor the following:

§ 994.52 Location differentials to handlers.

For milk which is received from producers at a plant located more than 200 miles by the shortest highway distance, as determined by the market administrator, from the El Paso County Courthouse in Colorado Springs, and which is classified as Class I milk the prices computed pursuant to § 994.51(a) shall be

reduced by 31.5 cents if such plant is located more than 200 miles but not more than 210 miles from such Courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 210 miles: *Provided*, That for the purpose of calculating such differential transfers between pool plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plant, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence beginning with the plant at which the lowest location differential credit would apply.

8. Delete § 994.81 and substitute therefor the following:

§ 994.81 Location differential to producers.

For milk which is received at a plant located more than 200 miles but not more than 210 miles by shortest highway distance, as determined by the market administrator, from the El Paso County Courthouse in Colorado Springs, there should be deducted 31.5 cents per hundredweight and an additional 1.5 cents shall be deducted for each 10 miles or fraction thereof that such distance exceeds 210 miles.

Issued at Washington, D.C., this 27th day of October, 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-10217; Filed, Oct. 31, 1960; 8:46 a.m.]

[7 CFR Part 1034]

[AO-323]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Decision With Respect to Proposed Marketing Agreement and Order; and Referendum Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 25 F.R. 5907), a public hearing was held at Edinburg, Texas, on June 6-7, 1960, pursuant to notice thereof which was published in the FEDERAL REGISTER (25 F.R. 4476; 25 F.R. 4753), upon proposed Marketing Agreement No. 144 and Order No. 134 regulating the handling of lettuce grown in Cameron, Hidalgo, Starr, and Willacy Counties in South Texas.

On the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on September 30, 1960, filed with the Hear-

ing Clerk, United States Department of Agriculture, a recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exception thereto, was published October 5, 1960, in the FEDERAL REGISTER (25 F.R. 9550).

No exceptions were filed.

Material issues. Material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the Act;

(3) The definition of the commodity and determination of the production area to be affected by the marketing order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the marketing order including:

(a) Definitions and terms used therein which are necessary and incidental to attain the declared objectives of the Act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and conditions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee which shall be the administrative agency for assisting the Secretary in the administration of the program;

(c) The authority to incur expenses and to levy assessments on shipments;

(d) The authority for the establishment of research and development projects;

(e) The methods for limiting the grade, size, and quality of lettuce which may be handled;

(f) The methods for limiting the total volume of lettuce which may be handled during any period with provisions for allotting the amount of lettuce each handler may handle under uniform rules for equitable apportionment of such quantities among producers;

(g) The methods for establishing and maintaining, when parity prices have been established, minimum standards of quality and maturity, or an orderly flow of lettuce to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices, or both;

(h) The methods for authorizing special regulations applicable to the handling of lettuce for specified purposes or to specified outlets under special regulations that are modifications of, or amendments to, grade, size, and quality regulations;

(i) The necessity for inspection and certification of shipments;

(j) The procedure for establishing record keeping and reporting requirements upon handlers;

(k) The requirements of compliance with all provisions of the marketing order and regulations issued pursuant thereto; and

(l) Additional terms and conditions as set forth in § 1034.82 through § 1034.95

and published in the FEDERAL REGISTER (25 F.R. 4476) on May 20, 1960, which are common to marketing orders.

Findings and conclusions. Findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) Lettuce, an important vegetable crop, is produced in and marketed from several producing sections in the United States.

It is produced and marketed each month of the year.

It is shipped to, sold in, and distributed through all important terminal markets in the United States and Canada.

Winter lettuce, so identified by its marketing season, is produced in and marketed from Texas, Florida, Arizona, and California.

Lettuce from each of the winter states is marketed daily and weekly during the late fall, winter, and early spring. Lettuce from Lower Valley (Cameron, Hidalgo, Starr, and Willacy Counties), Texas is marketed during the late fall, winter, and early spring in competition with lettuce from other winter states.

Rail and truck unload reports on Texas lettuce show the principal market area includes Texas, the Mississippi-Missouri-Ohio basin, Southeastern States, and the Atlantic seaboard.

Market News Reports (USDA-AMS-F&V record market quotations for Texas lettuce in major cities, such as Atlanta, Chicago, Dallas, New Orleans, and St. Louis.

Lettuce is an article of commerce with established markets throughout the country, on which regular reports by public and private agencies are made showing quantity and quality of supplies moving from shipping points, supplies arriving at and unloaded in terminals, prices reflecting supplies and changes therein, with the result that prices and other features of trading in the commodity are equated as a basis for exchange between buyers and sellers.

Communications between buyers and sellers, both in terminal markets and in shipping point and terminal markets, are modern and rapid so that shipping point markets reflect terminal market prices and also reflect the effect of both immediate and future supplies.

Simultaneously, terminal market prices reflect effects of supplies being traded at and coming on at shipping point.

Shippers estimated eighty to ninety percent of Lower Valley lettuce shipments are moved on original billings to out-of-state destinations, with many shipments to Texas points being diverted or transshipped in whole or in part to markets out of state.

Shippers follow terminal markets closely and buy from or settle with growers on the basis of market prices reflecting terminal market conditions. Lower Valley lettuce is sold in customary channels of trade for lettuce and distributed through usual market outlets in its trading area.

The quantity and quality of Lower Valley lettuce supplies being marketed have a direct effect on the marketing of

all lettuce, whatever the source, and the quantity and quality of lettuce being marketed from other sources of supply have a direct effect upon marketing conditions for Lower Valley lettuce.

Season average prices for Texas winter lettuce for the 1954 through 1959 seasons ranged from 69 to 105 percent of parity. Texas season average prices for winter lettuce were above the parity equivalent price in one—the 1957—season.

From these findings on the record evidence it is concluded that the marketing of Lower Valley lettuce is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce. In addition, it is concluded that prices to growers have been such that parity limitations of the Act do not preclude promulgation of a marketing order for Lower Valley lettuce. Therefore, the right to exercise Federal jurisdiction in promulgating and administering a marketing order for Lower Valley lettuce is founded in fact and should be exercised.

(2) Lettuce, a commercial vegetable crop in Cameron, Hidalgo, Starr, and Willacy Counties (the Lower Rio Grande Valley or Lower Valley), Texas is marketed in the late fall, winter, and early spring.

Lower Valley lettuce is reported by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture with the Texas winter crop which, in turn, is included as part of the lettuce crop in the winter states of Florida, Texas, Arizona (Yuma), and California.

Texas winter lettuce annual acreage for harvest during the 1954-60 period averaged 12,970 acres ranging from 20,800 acres in 1956 to a low of 5,000 acres in 1959. Indicated harvested acreage for 1960 was 7,000 acres.

Lower Valley farms reporting lettuce production in the 1954 Census of Agriculture numbered approximately 400 with approximately 8,000 acres of lettuce. Lower Valley lettuce shipments averaged 1,835 carlot equivalents for the 1956-57 through the 1959-60 seasons. Shipments, responding to lettuce market price levels, ranged from a low of 461 carlot equivalents in 1958-59 to a high in 1959-60 of 3,730 carlot equivalents.

Lower Valley rail shipments of lettuce represented 79.6 percent of Texas total rail shipments of lettuce in 1956-57, 68.3 percent in 1957-58, and 73.9 percent in 1958-59.

Lower Valley lettuce represents the bulk of Texas winter lettuce marketings and market prices during the winter lettuce season directly reflect marketing conditions for Lower Valley lettuce.

Farm prices of Texas winter lettuce averaged \$4.34 per hundredweight for the period 1953-54 through the 1958-59 seasons. Season average prices ranged in that time from \$3.35 per hundredweight in 1955-56 to \$5.20 per hundredweight in 1956-57. Season average farm prices for Texas winter lettuce were less than the parity price equivalent in 5 of the 6 seasons, 1953-54 through 1958-59. Parity price relationships ranged from 69 to 105 percent of the parity price equivalent, with the low point in 1955-

56 and the high in 1956-57. The farm price for these six seasons averaged less than the average parity equivalent for the period.

Monthly average prices for lettuce fluctuate from month to month each season, with variations during the winter season in the 1954-60 period ranging from \$2.35 to \$7.00 per hundredweight.

Lower Valley f.o.b. lettuce prices fluctuate from week to week, ranging widely in response to variations in quantity and quality of supplies being or about to be marketed. Market News Service reported Texas Lower Valley f.o.b. prices ranging from \$1.28 to \$4.50 per 2 dozen carton within a four week period during the 1959-60 season. Comparable f.o.b. prices for the previous season, 1958-59, ranged from \$1.64 to \$2.44 per 2 dozen carton. The previous season, 1957-58, reports show comparable ranges from \$1.22 to \$1.62 per 2 dozen carton. In 1956-57, comparable prices are reported as ranging from \$1.37 to \$2.37 per 2 dozen carton. A year earlier, in 1955-56, prices for the 2 dozen carton, f.o.b. Lower Valley, ranged from \$0.85 to \$1.62.

Terminal market price reports for lettuce indicate similar fluctuations and ranges in prices to those found for Lower Valley f.o.b. lettuce prices.

Terminal market and f.o.b. lettuce prices are a direct function of the quantity and quality of lettuce being marketed or available for market. Increases in marketings or in lettuce available for market result in lowering of prices. Some qualities of lettuce sell for less than other qualities, also smaller sizes usually sell for lower prices per carton from the customary standard 2 dozen per carton size. Increases in proportions of poor quality or small sizes, or both, in the total supply tend to depress market prices for lettuce.

Lower Valley lettuce prices have reacted directly to changes in the quantity and quality of lettuce being marketed from all sources of supply during the winter season. Also, Lower Valley lettuce prices have reacted directly to changes in the quantity and quality of lettuce marketed or available for market from the Lower Valley, Texas. Changes in Lower Valley supplies directly affect terminal and f.o.b. prices for all lettuce being marketed during the winter season.

Prices received by Lower Valley lettuce growers are a direct function of prices received in terminal markets and f.o.b. shipping point. Customarily shippers handle growers lettuce on a packout basis, with final settlement reflecting market returns less packing and sales costs. Other forms of settlement, whether on field sales, or other unit of grower sale, reflect market prices.

Often relatively small quantities of poorer qualities and smaller sizes of Lower Valley lettuce when marketed depress market prices, especially grower prices, for better qualities and more preferred sizes that constitute the bulk of Lower Valley marketings.

The quantity of lettuce available for market during some weeks or other periods of some winter seasons has been

in excess of the quantities which could be marketed at any price which would give growers any return above packing costs. It is not unusual, and some seasons it is a frequent occurrence for growers to abandon fields of otherwise marketable lettuce because market prices are too low to reflect any returns to the farmer over harvesting and packing costs. In some instances of excessive supplies market prices are at levels too low to cover packing and sales costs, so farmers incur added losses from sales of lettuce made under that type of market conditions.

Terminal market receivers of lettuce favor a steady supply of preferred qualities and sizes of lettuce as a means of promoting orderly marketing. Handlers of Lower Valley lettuce testified that experience in handling lettuce in other producing areas indicates that the volume of lettuce being marketed during specific periods, such as each week, directly affects market price levels for lettuce, including lettuce marketed from the Lower Valley. They also find that shipments of lettuce from each producing section including the Lower Valley, can be limited so as to improve marketing conditions and increase growers' prices.

Prices to Lower Valley lettuce growers have averaged below parity and, on facts above found, need exists for promoting more orderly marketing conditions for Lower Valley lettuce which will tend to establish parity prices to farmers in accordance with the declared policy of the act. On the facts found, it is concluded, therefore, that need exists for a Lower Valley, Texas, marketing order as hereinafter set forth.

(3) The vegetable commonly known as lettuce and botanically known as *Lactuca sativa*, is a well known crop grown in the production area and marketed commercially throughout the United States. It is the crop or vegetable grown in the Lower Valley to which this program applies. The definition applies to the lettuce commonly known as head lettuce or Iceberg type lettuce. Iceberg type lettuce is grown commercially in Lower Valley Texas as well as in other sections of South Texas such as Laredo and Winter Garden.

"Production area" is defined to include all the territory in the counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas. These counties comprise and are commonly referred to as the Lower Rio Grande Valley or the Lower Valley, Texas. They also comprise a contiguous area well known in the lettuce trade and other vegetable markets as an important producing section for winter vegetables, including lettuce. Growing conditions are similar in all sections of the production area. Methods of production, harvesting, and marketing are practically the same throughout the entire Lower Valley, except for minor variations due to individual management practices.

Lower Valley lettuce plantings begin in the late summer or early fall, with marketings beginning in the late fall or early winter, and continuing throughout the winter season into early spring. Production and marketing of Texas lettuce dur-

ing the winter season centers primarily in the Lower Valley. The bulk of the Texas winter lettuce crop is grown in the Lower Valley. This area is commonly accepted in the produce trade as being the chief, and most representative production and marketing area for Texas winter lettuce.

The Lower Valley lettuce production area is distinct from the other lettuce producing sections in Texas. It is bordered on the east by the Gulf of Mexico, on the south and west by the Rio Grande River, and on the north by ranch country. Laredo and Winter Garden are the next closest lettuce producing sections, but each is 100 miles or more distant, with intervening desert or ranch country, unsuited to lettuce or other vegetable production.

There is no reasonable method for dividing the production area into smaller units for purposes of marketing orders. The territory included within the production area constitutes the smallest regional production area that is practicable and consistent with carrying out the policy of the act.

On the facts above found on record evidence, it is concluded the production area should be defined as including all the area within the four counties comprising the Lower Valley Texas.

(4) "Handler" and "shipper" are synonymous and mean those persons who, under the applicable terms and conditions of the marketing order, place or are responsible for placing lettuce in the current of the commerce within the production area or between the production area and any point outside thereof. The persons upon whom rests the obligations of complying with the terms and conditions of the marketing order are identified and established in the definition of handler. Each person engaged in the act or acts of handling lettuce in the stream of commerce within the production area or between the production area and points outside thereof, or who causes such lettuce to be handled, is a handler. As will hereinafter be demonstrated, handling begins with harvesting and packaging, since harvesting and packaging are simultaneous actions placing lettuce in the stream of the commerce through which it is marketed. More than one person may be a handler of the same lot of lettuce in that a person who makes a sale of lettuce may be a handler and in turn any other person who transports lettuce in the current of commerce within the production area or between the production area and any point outside thereof also is a handler. Also if one person sells lettuce to another, and the second person sells lettuce to a subsequent buyer, and each transaction is in the aforesaid stream of commerce in lettuce, then each person is a handler of lettuce. Each person in the chain of harvesting, packaging, selling or transporting lettuce in the aforesaid stream of commerce is within the definition of handler and is responsible for complying with the terms and conditions that are applicable to such persons under the marketing order and regulations issued thereunder.

A common or contract carrier transporting lettuce which is owned by an-

other person is performing a handling function. Such person should be exempted from responsibilities under the program since such freight carriers are not responsible for the volume, the grade, size, quality, or pack of lettuce being transported. Neither are they the persons who cause the introduction of lettuce into the stream of commerce. As the only interest of common or contract carriers of lettuce is to earn the service charge for transporting the freight involved to destinations given by others, they are excepted for these obvious reasons from the definition of handler. However, any person or persons delivering lettuce to a common or contract carrier should be responsible for compliance with the terms and conditions of the marketing order. Therefore, the term "handler" or "shipper" is defined to mean any person except a common or contract carrier of lettuce owned by another person, who handles lettuce or causes lettuce to be handled.

Handle and ship are used synonymously and the definition so indicates. "Handle" is defined to establish specifically the marketing activities or functions which, in fact, place Lower Valley lettuce in the current of commerce within the production area or between the production area and any point outside thereof. These facts, as on the record evidence found, provide a basis for determining the activities and functions involved in and related to the marketing of Lower Valley lettuce which should be, and under the terms and conditions of the marketing order are made subject to regulations under authority of the marketing order.

A producer in his capacity as a producer is not subject, according to the act, to the provisions of the marketing order. The growing of Lower Valley lettuce up to maturity and to the point immediately preceding harvest is a producer function within the above exception. Some growers are farmers only, others may be both lettuce producers and handlers. Planting, cultivating, irrigating, and associated activities which bring lettuce up to the point of maturity, are within the exception applicable to a producer.

Producers and handlers customarily work in close association in managing many phases of lettuce production. It is not only common, but also rather usual for a producer and his handler, if separate entities, to plan together for marketing the crop. Management plans begin before planting with agreement on a planting schedule. The planting schedule is significant in that it helps to indicate when available supplies for market may be expected. Coordination of producer and handler planning becomes closer and more constant as fields of lettuce approach maturity. As fields of lettuce approach maturity producers and handlers may, and usually do, confer on when a particular field or block of lettuce will be ready for harvest, but it is customary practice for the handler or shipper to decide when the harvesting crew will begin to cut and pack.

Following the decision as to when a field or block of lettuce is ready to handle, the handler then customarily takes

over. Packing crews are employed by and are under management of the handler. Handlers send their crews to fields with directions as to the quality and size lettuce to be cut. The handler also delivers cartons to the field. The crew or crews, employed by and under direction of the handler, then proceed with cutting and packing lettuce in containers, usually in cartons. The handler's crews, usually a cutter and his two packers, customarily move along the row or rows selecting, cutting, and packing the particular heads of lettuce which meet maturity, quality, and size requirements of the handler's directions.

The packaged lettuce is placed on a truck or other suitable conveyance for transportation from the field. Then it customarily proceeds to the cooler. At the cooler it is removed from the flat bed or other similar local truck, and put in the cooler for a short time to reduce the field heat and bring the temperature down to a point where it will better retain marketable condition while it is distributed through marketing channels. The great bulk, probably 90 percent of lettuce marketed from the Lower Valley, is vacuum cooled.

While lettuce is being packed in the field, inspection, if called for, is usually made, especially for larger operations. In some instances inspection may be made later at the cooler.

The dealer, shipper, or handler who cuts and packs lettuce in the field customarily, and almost without exception, also sells the lettuce. Established handlers have salesmen and sales organizations. The manner of sale may be various, following customary methods used in the produce business. Handlers may sell to buyers for distribution outside the Lower Valley on an f.o.b. cash, or delivered basis, or in accordance with other customary or generally accepted sales practices. Also, handlers' settlements with growers may be on firm prices or they may be based on the returns received by the handler from his local or terminal sales. Sales may be made to buyers operating in the Lower Valley or to distant buyers operating in terminal markets. In either instance, the sale by the handler is one of the activities which places lettuce in the stream of commerce.

Handler's operations begin, in brief, as their crews start work in a field of mature lettuce. The crews job of packaging lettuce includes the simultaneous activities of cutting and packing the lettuce in the cartons or other packages in which it is marketed. Distribution in commerce continues in the same packed cartons until it reaches the retail store or institution that makes final sale at retail. These activities and functions, which include the packaging, selling, and transporting of lettuce in the current of commerce within the production area or any point outside thereof comprise the basic elements of handling.

Some handlers do not have established sales organizations and do not operate in some other respects as do the handlers above defined. These persons often make up their own packaging crew and

their own sales organization in that frequently, if not usually, they buy the remaining lettuce in a field after established handlers have cut the crop deemed commercially acceptable. They then cut and pack lettuce in cartons in a manner similar to the activities or functions above described. But often they do not do a reputable job of selecting heads as to quality, maturity, and size, and usually they do not get the lettuce cooled. The truck driver frequently, if not usually, is the salesman who peddles the lettuce along the way. This group of handlers is commonly referred to by the others as "gunny sackers" and frequently, if not usually, according to growers' and handlers' testimony, they handle inferior quality, without proper selection or grading. The effect of these sales in all markets, but particularly in the local market, is serious, and such sales adversely affect all other sales of lettuce by depressing market prices.

Sales by a producer of fields or blocks of lettuce to a registered handler which are made prior to the time that any lettuce is cut from such fields or blocks should not be included within the definition of handle, because such lettuce sale is not in the stream of commerce. The lettuce included therein is still to be selected, cut, and packaged according to customary operations at a later time. On the other hand, sales of lettuce by a producer from a field or block after cutting has begun therein are sales in the stream of commerce for such sales and such handling contributes to the quantity, quality, maturity, and size of lettuce being marketed and thereby affects commerce in lettuce. Such sales, except those to registered handlers, are included within the definition of handle.

The sale of lettuce by a producer to an established handler who is registered as such with the committee would be based on the well known and commonly accepted fact that the established handler would properly prepare the lettuce for market and any packaging, sales or transportation of such lettuce would be an obligation of that handler. If truckers or other persons desiring to handle Lower Valley lettuce indicate their responsibility or their willingness to accept responsibility for complying with the terms and conditions of the marketing order, they may be registered as handlers by the committee. This provides a means whereby additional handlers may enter the lettuce business in the Lower Valley if they indicate and carry out a responsibility to the industry by complying with the terms and conditions of the marketing order. Sales by a producer of lettuce in a field, after harvest has begun or when it is mature, to a registered handler is relieved of regulatory burdens of inspection or similar handler obligations under the terms and conditions of the marketing order. However, if a producer sells to other than a registered handler such sale shall be an act within the definition of handle and the person responsible therefor shall be subject to the regulatory obligations on handlers.

Some lettuce is produced in the Laredo and in the Winter Garden sections some distances beyond the borders of the Lower Valley production area. However, a small portion of the Laredo lettuce is hauled at times the 100 or more miles to the Lower Valley for vacuum cooling. Inasmuch as such lettuce enters the production area in cartons which have been packaged in the Laredo area, also presumably marked with appropriate identification distinguishing it from Lower Valley lettuce, such lettuce grown outside of the production area should not be subject to the definition of handle and particularly not subject to the volume regulation applicable to Lower Valley lettuce.

Sales of lettuce by a retailer in his capacity as a retailer are exempted by the act and are not within the authority of the terms and conditions of the marketing order.

On the basis of the facts found it is concluded, therefore, that handle or ship should be defined to mean the packaging of lettuce which begins with the cutting and packing of lettuce, the sale, transportation, or any other activity that places lettuce in the current of the commerce within the Lower Valley production area or between the production area and any points outside thereof. Therefore, the definition of handle or ship as set forth in the terms and conditions of the marketing order should be adopted.

In addition, the definition of registered handler should include any person with adequate facilities for preparing lettuce for commercial market and who customarily does so. Such person may be recorded by the committee. A registered handler should also include any person who has access to such facilities for preparing lettuce for commercial market and who has recorded with the committee his ability and willingness to assume customary obligations of preparing lettuce for commercial market. The definition therefore should be as set forth in the terms and conditions of the marketing order.

(5) Certain terms applying to specific individuals, agencies, rules, legislation, concepts, conditions, or things are used throughout the marketing order. Such terms should be defined for the purpose of designating specifically their applicability in establishing the approximate limitation of their respective meaning whenever they are used.

(a) The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, but also, in recognition of the fact that it is physically impossible for him to perform personally all of the functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter, be authorized to act in his stead.

"Act" is defined to provide the correct legal citation for the statute pursuant to which the marketing order is promulgated and administered. Repetition of the citation, therefore, is unnecessary when used thereafter in the marketing order.

The definition of "person" follows the definition of that term as set forth in

the act, thereby insuring that it will have the same meaning as when used in the act.

"Producer" is defined to mean any person who is engaged in a proprietary capacity in the production of lettuce within the production area who is producing such lettuce for market. The term is used in determining the eligibility of persons to vote for and to serve as producer committee members or alternates and for other administrative reasons.

Inasmuch as a person is defined as an individual, partnership, corporation, association, or any other business unit each such person constitutes a legal entity. Each person or legal entity, whether an individual, partnership, joint venture, or corporation engaged in the production of lettuce for market should be classified as a producer so that he may participate in the rights and privileges accorded a producer under the marketing order. The term producer should be limited to those who have an ownership interest in the lettuce which gives them title or authority to pass title to the commodity.

In the production area lettuce occasionally is sold by the grower or producer prior to the date of harvest. Such sales are generally to a handler and while title actually passes at this point, the sales agreement in most instances includes the consideration that the producer will care for the crop until it is harvested. In such cases even though title passes to the handler at the time of purchase, the buyer would not therefore be classified or qualified as a producer since the buyer does not actually perform customary producer functions in growing of the crop.

Some lettuce crops in the production area are grown under joint venture arrangements in which money is advanced for seed, labor, water, etc., by handlers, banks, or others, through which an interest in the crop is acquired. When the crop is sold the person who advanced the money is repaid in money. In such cases the grower who plants and tends the crop should be considered the producer since he rather than the financier performs the customary producer functions. In this case the financier and the grower are in effect a partnership; therefore only one producer is involved.

Some producers may cut and pack lettuce and have their own sales organization. If such producers handle lettuce of their own production they should be considered producers as their primary interest probably will be with this group rather than with handlers.

The term should exclude persons who grow lettuce on a small scale primarily for their own use. The definition should cover only those persons who grow lettuce on a commercial scale for market and who have a proprietary interest in such lettuce.

Definitions of "grade" and "size" are incorporated in the marketing order to enable persons affected thereby to determine the basis for application of grade and size limitations to the product they handle. "Grade" and "size," the essential

terms establishing commonly known, published, and measurable standards of quality and size, should be defined as encompassing the meanings assigned to those terms in the official United States standards for lettuce issued by the United States Department of Agriculture, and to modifications or amendments to such standards, and to variations from such standards involved in regulations under the marketing order. Regulations under the order can amend and incorporate such terms (grade, size) with the constant meaning assigned thereto in such standards or in such modified or amended standards. Also, such regulations can vary such terms by prescribing, for example, a percentage of grade. Federal or Federal State Inspectors are qualified to certify to the grade, size, and quality of lettuce grown in the production area under the terms of the aforesaid standards, of modifications or amendments based thereon. The current United States Standards for Lettuce were issued and published in 1954 (§§ 51.2510 to 51.2524). They are used in the production area, in other lettuce producing sections, and in terminal markets for inspecting and certifying lettuce grade, size, and quality.

"Pack" should be defined as a basis for distinguishing the various units in which the lettuce is prepared for market and shipped. The term pack is commonly used throughout the lettuce trade and refers to a combination of factors relating to grade, size, and quality of lettuce and to the type of the container in which lettuce is traded. A "standard pack" is commonly used in reference to the size of heads in a container. For example, the 2 dozen heads per carton is a customary pack in which the heads therein are relatively uniform in size. A 2½ dozen pack also is used to some extent. Size factors, as represented by such examples, may be used as an essential feature in pack; so may weight, or grade, or any combination of such factors.

The term "container" should be defined in the marketing order to mean a box, bag, crate, hamper, basket, package, or any other receptacle used in the packaging, transportation, sale or shipment of lettuce. The term is defined to serve as a basis for differentiation among shipping receptacles in which lettuce is packaged, sold or moved to market and for which different regulations could be applicable.

The term "varieties" is included in the marketing order so that the committee may recognize the market differences and characteristics of different varieties and different types of lettuce and the differences and types of regulations which might be considered and recommended therefor. Distinctions among lettuce varieties in the Lower Valley are of importance in conjunction with mildew and similar marketing problems. However, to the extent that varietal distinctions now or in the future provide a basis for reflecting different market reactions, the marketing order should be authorized to recognize such differences in its terms and conditions.

The definition of "committee" is incorporated in the marketing order to

identify the administrative agency which is responsible for assisting the Secretary in administration of the program. Such committee is authorized by the act. The definition thereof promotes clarity and brevity in referring to the administrative agency in the marketing order.

The definition of "fiscal period" should be incorporated in the marketing order to establish the beginning and ending of a suitable period for fiscal accounting. This definition provides authority for the committee and the Secretary to set the dates for the fiscal period so that auditing and financial problems resulting from different crop conditions from one season to another may be met. Normally a fiscal period would be established to coincide with the beginning and ending date of the terms of the committee members (beginning August 1 and ending July 31), but flexibility within the definition should be authorized in the marketing order to consider alternatives arising from fiscal needs and to facilitate practical operations.

The definition of "export" is incorporated in the marketing order since regulations for export shipments differing from regulations for domestic shipments are authorized. Export markets have requirements differing from domestic markets, so authority for special regulations is justified. Export should be defined to include shipments from the 48 contiguous states. Any shipments offshore or to destinations outside the 48 contiguous states would be considered for market purposes as export.

Distinctions in demand for lettuce in Mexico and in Canada are readily apparent to the trade and commonly recognized. Authority for considering such distinction should be included in the terms and conditions of the marketing order.

(b) The South Texas Lettuce Committee consisting of 11 members (7 producers and 4 handlers) is the administrative agency established by the order to aid the Secretary. A committee composed of 11 members provides adequate industry representation reasonably assuring responsible judgments and committee deliberation on recommendations made to the Secretary and the discharge of other committee duties. A committee so composed of producers and handlers should be familiar with current market demands, available supplies, prospective shipments, current prices, price trends, including prices by grades, sizes, quality, packs, varieties, containers, types of outlets, volume being marketed from competing areas, volume essential to market stability and orderly marketing, and other relevant factors associated with lettuce marketing.

The marketing order should provide that an alternate be selected for each committee member, so that if a member is unable to attend a meeting there will be adequate representation for thorough deliberation. This provision is a logical method of providing for absentees whether such absences are voluntary or beyond the control of the members.

Individuals selected as committee members or alternates must be pro-

ducers or handlers for the reasons stated herein. Such individuals may be producers or handlers in their own right, or through a corporation, partnership, or other business unit. If an individual qualifies as above, if he also resides in the production area, and if he or the producer with which he is affiliated produces lettuce therein, he may serve on the committee as a producer member. Lettuce growers who handle only lettuce of their own production should be eligible to serve as producer members. Some producers in the production area pack and sell their own lettuce. While such producers may also perform the functions of a handler they are not prevented from serving on the committee as producer members if they handle only their own lettuce and qualify in other respects. Producer members must be residents of the production area and produce lettuce therein.

Handler members must be individuals, commonly considered within the industry as handlers or representatives of handlers, who are performing the usual commercial handling functions such as buying, harvesting, packing, selling, and shipping lettuce. Handler members also must be residents of the production area. These requirements are deemed essential to achieve the best possible committee representation and to achieve reasonable balance on the committee, since such individuals would be familiar with their segments of the industry and the problems connected therewith. As set forth elsewhere herein, the program is designed to benefit growers; hence, the committee should have a greater proportion of producers. However, because of their experience and knowledge of the industry, the committee should also include handler members.

It is practical and equitable that selection of committee members and alternates be on the basis of the production area at large as provided for in the marketing order. The production area is made up of only four counties. Common practice among lettuce growers and handlers is to meet in an acceptable location so that most growers and handlers are within an hour or less driving distance. Selection from the production area at large is deemed the most practical and expedient representational method by proponents.

The term of office for committee members and alternates under the marketing order should be for two years beginning August 1 and ending July 31 and any additional period necessary for selection and qualification of successors. A two year term provides an adequate length of time and, in addition, an opportunity for the industry to nominate some new committee members and alternates each year. The terms of individual members should be so determined that roughly one-half of the committee would be selected each year, thus providing continuity of experience on the committee. The beginning of each term of office occurs during an interlude between the completion of one crop and the beginning of the succeeding one. This term of office will allow adequate time for the committee to organize and

start operating before the opening of each season.

Committee members and alternates shall serve during the term of office for which they are selected and until their successors are selected and have qualified. Such provision is necessary in order to insure continuation of committee operations. Also, if committee members and alternates are not selected until after the beginning of a term of office such committee members should serve that portion of the term of office for which they are selected.

Election of grower nominees for committee membership should be prescribed in the marketing order by authorizing meetings for this purpose. Meetings to elect nominees for the initial committee under the marketing order may be called by the Secretary of Agriculture or any agency or group requested by the Department to hold such meetings. Nomination meetings for the purpose of electing nominees for members or alternates after the initial committee has been selected should be called or held by the Secretary, or by the committee, or by agencies or groups requested to hold such meetings by the Secretary or by the committee.

At least one nominee shall be designated for each position as committee member, and for each position as alternate. However, a greater number of nominations may be submitted and voters at nomination meetings may indicate the ranking of their choice for all nominees for members and alternates. This method, sponsored by the industry, is deemed appropriate and practical.

It is appropriate and proper that nominations should be supplied to the Secretary in the manner and form which he may prescribe. This requirement merely means that the industry through the committee would provide the Secretary with background information in connection with each nominee so that the Secretary may be able to determine before making his selections if such nominees are qualified. To allow sufficient time for this purpose nominations should be supplied to the Secretary not later than July 15 of each year.

All persons participating in nomination meetings for producer members and alternates should be producers of lettuce, and persons participating in handler nomination meetings should be handlers, so that the persons nominated will be representative of each group, and will reflect the sentiment of their respective group in committee decisions.

In order to assure the existence at all times of an administrative agency to administer the program the Secretary should be authorized to select committee members and alternates without regard to nominations, if for any reason they are not submitted to him in conformance with the procedure prescribed in the marketing order. For the reasons given above, such selections should, of course, be on the basis of the representation provided for in the marketing order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willing-

ness and intention to serve in such a capacity. This requirement is necessary so the Secretary will have definite knowledge that the person appointed is willing to serve and that the position has been filled. The requirement that these acceptances be filed within 10 days is appropriate, necessary, and reasonable.

It is also desirable and necessary that the Secretary be authorized to fill committee vacancies without regard to nominations if nominees to fill such vacancies are not made available to the Secretary within 30 days after such vacancy occurs. This requirement is necessary to maintain continuity of committee operations and to insure that both producers and handlers are adequately represented in the conduct of committee business.

Also, to insure that all portions of the production area are adequately represented in the conduct of the committee's business and that the continuity of operation is not interrupted, the marketing order should provide for alternate members on the committee. Such alternates should be authorized to act in the place and stead of the member during the member's temporary absence, or in the case of the death, removal, resignation, or disqualification of the member.

Seven committee members should be necessary, according to industry testimony, to constitute a quorum. Seven concurring votes should be required to pass any committee action. At least seven members should be present to provide the representation necessary and sufficient to conduct business.

Proxy voting is not intended so all votes, at other than telephone or telegraph meetings, should be cast in person in order that all members may participate in the discussions and present the views of the growers they represent. If for some reason a member is unable to attend the meeting he should arrange for his alternate to attend and vote in his stead.

The committee should be authorized to vote by telephone, telegraph, or other means of communication as it may be necessary at times for the committee to act more promptly than a meeting in person would allow. Since such meetings by telephone, or other quick communications, are intended to expedite committee action better to meet timely necessity, a unanimous vote of all members contacted and voting should be required to approve committee action. Because marketing conditions often change rapidly, it is essential that the committee should be permitted to take prompt action necessary to protect properly the industry's interests.

Committee members and alternates while on committee business will necessarily incur some expenses. These expenses, which may include travel and living expenses, should be reimbursed so as to avoid personal financial loss to members which might otherwise occur because of their service to the committee. Also, compensation, at rates to be determined by the committee with the Secretary's approval, should be authorized since committee members may incur additional expense with respect to their own affairs when attending to com-

mittee affairs. These provisions should also extend to alternate members when performing official duties.

The committee should be given those specific powers which are set forth in section 8c(7) (C) of the act because they are necessary for proper functioning of administrative agencies, such as the South Texas Lettuce Committee.

The committee's duties as set forth in the marketing order are necessary for the discharge of its responsibilities. The duties established for the committee are generally similar to those specified for administrative agencies under programs of this character. They are reasonable and necessary if the committee is to function in the manner prescribed under the act and the marketing order. It should be recognized that the duties specified are not necessarily all inclusive and it is probable that there are other duties which the committee may need to perform which are incidental to, and not inconsistent with, its specified duties.

(c) The committee should be authorized to incur such expenses as the Secretary finds reasonable and likely to be incurred by it during each fiscal period for the maintenance and functioning of such committee, and for such other purposes as the Secretary, pursuant to the provisions of the marketing order, determines to be appropriate. The expenses so incurred should be shared by handlers on the basis of the ratio of each handler's total shipments of the commodity to the total shipments thereof by all handlers during specified fiscal periods. Determination of the ratio of shipments by individual handlers should be based upon shipments by first handlers thereof. This formula is hereby found to be a fair method of obtaining operating revenues on an equitable basis.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the marketing order for such period. Each budget should be presented to the Secretary with an analysis of its components and an explanation thereof in a report. The committee should recommend a rate of assessment to the Secretary designed to return sufficient income each fiscal period to cover expenses incurred by the committee. No increase in the total budget should be made without prior committee recommendation and approval of the Secretary.

The funds to cover committee expenses should be obtained by levying assessments on handlers. The act authorizes the Secretary to approve the incurring of such expenses by administrative agencies, such as the proposed South Texas Lettuce Committee. The statute also authorizes each marketing order to contain terms and provisions requiring handlers to pay their pro rata shares of the administrative agency's necessary expenses.

Each handler should pay the committee, upon demand, his pro rata share of such reasonable expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal

period. Such pro rata share of expenses should be equal to the ratio between the total quantity of lettuce handled by him as the first handler thereof during a specified fiscal period and the total quantity of lettuce so handled by all handlers during the same fiscal period. It will be necessary that responsibility for the payment of the assessment on each lot of lettuce be fixed and it will be logical to impose such liability on the first handler of such lettuce. In most instances, the first handler and the applicant for inspection are the same person. However, in the event the first handler fails to apply for, and obtain, inspection, this does not in any way cancel his obligation with respect to the payment of assessments. Except in the case of movement to registered handlers, first handling should apply to lettuce when it is packaged or otherwise prepared for market. Assessment rates should be recommended by the committee and applied by the Secretary to a specific unit of shipment or its equivalent. However, such assessments for a fiscal period should be applied on a uniform rate basis.

The committee should be authorized at any time during or subsequent to a given fiscal period, to recommend the approval of an amended budget and the fixing of an increased rate of assessment to balance necessary committee expenses and revenues. Upon the basis of such recommendations, or other available information, the Secretary should be authorized to approve amended budgets and, if he should find that the then current rate of assessment is insufficient to cover committee expenses for administration of the marketing order, he should be authorized to increase the rate of assessment. The marketing order should also authorize the application of such increased rate of assessment to all lettuce previously handled by first handlers during the specified fiscal period so as to avoid inequities among handlers.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purpose of administration of the marketing order, including appropriate research and development projects. The committee should be required to maintain books and records clearly and accurately reflecting up-to-date operations of its affairs, so that its administration may be subject to inspection at any time by appropriate parties during regular hours of business.

Each member and each alternate, as well as employees, agents, and other persons working for or on behalf of the committee should be required to account for all receipts and disbursements, funds, property, or records for which they are responsible and the Secretary should have the authority, at any time, to ask for such accounting.

Whenever any person ceases to be a member or alternate of the committee he should be required to account for all receipts, disbursements, funds, property, books, records, and other committee assets for which he is responsible. Such persons should also be required to execute assignments or such other instruments as may be appropriate to vest in their successor or any agency or person

designated by the Secretary, the right to all such property and all claims vested in such person.

If the committee should recommend that the operations of the marketing order should be suspended, or if no regulation should be in effect for a part or all of a marketing season, the committee should be authorized to recommend, as a practical measure, that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby the committee's business affairs could be taken care of during periods of relative inactivity with a minimum of difficulty and expense.

The committee should provide periodic reports on its fiscal operations. It is expected that audit reports will be requested by the Secretary at appropriate times, such as at the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervision and control of the committee's affairs. Also, monthly financial statements which reflect the current fiscal position of the committee should be furnished members, alternates, and the Secretary. Annual audit reports and monthly financial statements should also be made available on request to persons, such as producers and handlers, having a valid interest in the committee's affairs. In no case should data of a nature which could be detrimental to the interests of an individual handler or producer be disclosed in releases of fiscal or other reports.

Except as indicated below, handlers should be entitled to a proportionate refund of the excess assessments collected which remain at the end of a fiscal period, or at the end of such other period as might be deemed appropriate by reason of suspension or termination. Refunds should be credited to contributing handlers respectively against the operations of the following fiscal period, unless payment should be demanded, in which event proportionate refunds should be paid.

If and when the committee should be required to liquidate its affairs, expenses will necessarily be incurred in the liquidation process. The committee affairs being liquidated might involve several past years' operations. It will be appropriate, therefore, that funds remaining at the end of a fiscal period, which are in excess of those necessary for payment of expenditures during such period, be carried over into subsequent fiscal periods as a reserve for possible liquidation in the event of the termination of the order.

It is generally considered to be good business practice to provide for unforeseen contingencies. For example, it is possible that adverse weather conditions might result in a total or partial crop failure during a fiscal period. Also, the anticipated crop for any season might conceivably be reduced by other factors. The net effect of such a crop failure would be to reduce greatly or stop shipments, and could cause the discontinuance of regulation and the collection of assessments or a reduction in total com-

mittee revenue. In order to continue and maintain the nucleus of a committee organization and to assure the performance of a minimum of basic services, the committee should have authority to secure needed extra funds to cover the expense of operation during such a fiscal period. Such funds might reasonably be drawn from reserves.

Reserves might also properly serve additional purposes. At the beginning of each fiscal period, needs arise for operating monies at a time when there will usually be little, if any, revenue from assessments. It is customary and sensible budgetary practice, and the committee should be so authorized, to borrow operating funds from the above reserve until such time as assessment collections provide adequate revenue to meet current expenses. It is contemplated that any such reserve will have a quadruple use; namely, (i) expense of liquidation, (ii) crop failure or reduced revenue advance, (iii) expenses authorized during periods of suspension or when no regulations are in effect, and (iv) fiscal period advance. Proponents testified reserves should be limited to an amount roughly equivalent to the average budget of expenses for one fiscal period.

Any funds remaining after reasonable provision for liquidation, including any balance remaining in reserve funds, should be refunded to handlers on a pro rata basis. In some cases, however, an individual handler's account will be such a small amount as to make the return thereof impracticable or unduly expensive. Funds of such insignificant nature should be used by the committee for purposes of liquidation or put to such other use as the Secretary considers appropriate in the circumstances.

(d) The establishment or provision for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of lettuce is authorized by the act. Such authorization on record evidence found, should be included in the marketing order.

Through research investigations, the committee can obtain information enabling it and the Secretary to determine with a greater degree of accuracy effects of specific regulations on the market and thereby promote more orderly marketing.

As the industry and the committee become more aware of the value of and need for marketing research and development, projects will undoubtedly be initiated, the need for which will not have been foreseen early in committee operations. Therefore, the committee should have the authority to recommend and the Secretary should have the authority to approve the establishment of such projects which are in the best interests of lettuce marketing and which would assist, improve, and promote the marketing, distribution, and consumption of Lower Valley lettuce. After approval, the committee should be empowered to engage in or contract for such projects, to spend funds for that purpose, and to consult and cooperate with other agencies with regard to their establish-

ment. All such projects should receive the prior approval of the Secretary.

(e) A marketing order program is necessary, as hereinbefore found, to promote orderly marketing through limitation of quantities of Lower Valley lettuce which may be handled or through limitations of the grade, size, and quality of Lower Valley lettuce as a means of increasing growers' returns towards parity. An administrative committee is essential for recommending effective regulations authorized by the marketing order. Members and alternates, as hereinbefore found, will bring to committee deliberations direct, intimate knowledge, and expert judgment concerning the quantity of available supplies in the production area, as well as in competing areas, and they also will approach in a similar manner, deliberations on the grade, size, and quality of lettuce in the producing area, and the state or condition of the lettuce market, not only in its general but also in its unique supply and demand features. Committee members and alternates are in a position of direct interest, advantageously situated to determine if and when quantity or quality limitations on handling of Lower Valley lettuce would tend to promote orderly marketing and increase growers' returns towards parity.

Seasonal marketing plans, and marketing plans for specific periods within a season, to the extent that they can be developed at any particular time and projected for later portions of the season, are essential to provide overall plans or policy for the committee, the industry, and the Secretary with respect to the marketing of Lower Valley lettuce during each marketing season or specific periods therein. Marketing policy statements should indicate to producers and handlers the general marketing outlook and plan the committee intends to follow in considering and recommending the quantity, or grade, size, and quality regulations, or both, with respect to Lower Valley lettuce. Both handlers and producers would benefit by marketing policy statements so adequate preparations may be made for handling within and complying with the regulations which the committee indicates may be recommended.

Marketing plans, and marketing policy statements developed in connection therewith, relating primarily to grade, size, and quality limitations are based primarily on seasonal considerations and outlook. Marketing plans and policy statements therefor for volume regulations would be based necessarily on shorter term considerations and outlook than quality considerations for seasonal application. The essentials for each type of marketing consideration and plans, and distinctions in connection therewith, involve factors with which committee members and alternates are intimately associated and on which they are accustomed to apply practical, reasonable judgments.

The facts and considerations set forth in the marketing order which the committee should take up in developing a marketing policy for volume regulation, and for marketing policies other than

volume regulation, outline appropriate standards for administrative committee operations. To the extent that each of the factors set forth therein is applicable to particular problems confronting the committee, they should be adequately dealt with in the committee's marketing policy statements.

The committee should prepare and submit to the Department a report on each proposed marketing policy statement, or amendments thereto, relating to the marketing of lettuce during each season. This is essential for the Secretary, or those officials acting in his name and pursuant to his delegation, to effectively fulfill their responsibilities in administering the marketing order. Each season the committee should prepare and submit to the Department a statement of its marketing policy which submittal should be prior to, or simultaneous with, initial recommendations for seasonal regulations. Also, whenever the committee considers recommending a series of periodic volume regulations it should prepare and submit marketing policy statements thereon to the Department. At the same time that the committee's marketing policy statements are submitted to the Department, they should also be made available to growers and handlers in the Lower Valley through appropriate means of communication, such as committee bulletins, press releases, newspapers, radio, television, and other media available to the committee.

The committee, which has sole responsibility for recommending regulations authorized by the marketing order, as well as modifications, suspensions, amendments, or terminations thereto, should be authorized to consider and recommend any or all methods of regulations provided in the terms and conditions thereof. One of the committee's primary functions and responsibilities is to consider and initiate the recommendations for regulations as provided in the marketing order which will tend to promote orderly marketing and to increase growers' prices towards parity. The committee, as the local administrative agency, should have this authority since it is logical to expect its members and alternates to reflect the industry's views. In turn, the Secretary, in administration of the marketing program, looks to the committee as the administrative agency offering a reasonable, accurate reflection of industry considerations and judgments on matters pertaining to the marketing order.

Committee members and alternates, with intimate, expert, and timely information on the quantity of lettuce available for market and the amount being marketed, are in an advantageous position for considering and judging exact quantities of lettuce which should be marketed within particular periods. If, following a previous recommendation that the total quantity of lettuce to be shipped in a given week or other period should be fixed at a particular amount, the committee finds more orderly marketing would be promoted and growers' prices would tend to be increased by recommending the change in such total quantity, the terms and conditions of the

marketing order should so provide. In making any recommendations for such changes, the committee should give reasons therefor and submit them to the Secretary with their recommendations.

The quantity and quality of Lower Valley lettuce handled, i.e., sold or transported to market during any period, have a direct effect, as hereinbefore found, upon the total quantity and composition of lettuce supplies which, in turn, have a direct effect upon the prices received for lettuce, and the returns to Lower Valley producers are necessarily affected thereby. Limitation of the total quantity of Lower Valley lettuce that may be handled during any week or other specified period, or the limitation of handling of poorer grades, off quality, less desirable sizes, and immature or over mature Lower Valley lettuce, as authorized by the marketing order, provides methods for adjusting the total quantity of lettuce and the composition of such supplies, which can move to and be sold in Lower Valley lettuce markets.

The grades, sizes, qualities, or packs of Lower Valley lettuce may and often do vary from period to period, or from handler to handler, or within lots marketed by individual handlers. Prices received by handlers, and in turn paid to growers, also vary by grades, sizes, qualities, or packs. Some grades, sizes, qualities, or packs are discounted when sold in competition with the average or better run of Lower Valley lettuce and in competition with lettuce from competing areas. The limitation of discounted grades, sizes, qualities, or packs of lettuce tends to reduce the total quantity of lettuce marketed and, at the same time, to eliminate marginal effects on growers' prices of such discounts. It is determined, therefore, that the terms and conditions of the marketing order should include authority for limiting the handling of Lower Valley lettuce by grades, sizes, qualities, or packs, or any combination thereof. It is also found that such authority should apply to any or all portions of the production area and to any or all varieties of lettuce during any period.

Supplies of Lower Valley lettuce may differ from time to time, in the grades, sizes, qualities or packs available for market. These differences may arise because of production factors or because of factors originating in the marketing process. Differences in market reaction may apply to packs, to containers, or to variety, or to quality of lettuce marketed in these different manners. Market distinctions in varieties in the Lower Valley are rather slight. Authority for distinguishing by variety should be provided so that if varietal differences reflect market price differentials, the committee and the Secretary should be able to recognize and consider such differences and, if necessary, regulate accordingly. Proponents recognize differences between markets within the production area and those outside thereof. These differences reflect numerous factors, including the proximity and relative abundance of supplies within the production area, as well as transportation differences, and other marketing cost

differentials when compared with more distant markets. Proponents established the fact that orderly marketing would be promoted by allowing a distinction in consideration and regulation by grade, size, quality, or pack for markets within the production area and markets outside thereof.

Therefore, authority in the terms and conditions of the marketing order allowing different limitations on handling for different varieties, for different portions of the production area, for different markets, for different containers, or any combination of the foregoing, during any period, it is concluded, will tend to promote more orderly marketing and increase growers prices toward parity.

Lower Valley lettuce, is packed in cartons. This unit has become the usual container, with few exceptions, for marketing Lower Valley lettuce. Two dozen, sometimes 2½ dozen heads of lettuce are commonly packed in each carton. Also, lettuce is commonly packed so that standards therefor are well recognized. Inspection for standard packs is commonly made. Proponents stated there is no widespread abuse at the present in the use of off-size, irregular capacity, or peculiar dimension containers. However, proponents substantiated the fact that orderly marketing requires the marketing order to provide authority for fixing the size, capacity, weight, dimensions or pack of the container or containers which may be used in the packaging, transportation, sale, preparation for market, shipment, or other handling of Lower Valley lettuce for use by the industry, if such should become necessary.

Growers' prices react directly, as hereinbefore found, to the quantity and quality of Lower Valley lettuce being marketed. The lettuce industry is becoming accustomed, it is further found on proponents evidence, of operating on a six-day week. This practice has been followed in other lettuce producing areas under marketing plans there in effect. Proponents' experience in other lettuce producing areas is that six day shipping is adequate for five days distribution. The lettuce jobbing trade in terminals operates generally on five days per week. Also, experience in other producing areas is that cutting and packing of lettuce can be better regulated on six days per week than on seven. Handlers' management practices are more effectively operated on a six day basis rather than on a full week basis. Sunday holidays, beginning at midnight Saturday and ending midnight Sunday, which prohibit the cutting and packing of lettuce have been found beneficial to the promotion of orderly marketing and to the improvement of growers' prices in other areas. Proponents' experience is that Sunday holidays can also be beneficial under many circumstances in promoting more orderly marketing of Lower Valley lettuce.

In addition to Sunday holidays, authority for additional holidays would be beneficial under supply conditions resulting in glutted markets and unduly depressed price situations. Such packaging holidays should be approached cautiously,

according to record evidence, and should be recommended, also limited accordingly, to market situations, when emergency measures are necessary to stop oncoming supplies from entering terminal markets so that the terminals may be cleared sufficiently to promote more orderly marketing conditions. The fact that harvesting and packing holidays should be authorized during yearend holidays associated with Christmas and New Years, and such other holiday periods throughout the year when terminal markets tend to shut down for longer than customary weekend lulls.

Proponents also find that limitations should be placed on the extent to which packaging holidays can be called and that holidays should not extend for more than 72 hours. It is found on record evidence that not less than 72 hours should elapse between the termination of any holiday extending more than a 24 hour period. The 72 hours elapsed time is not intended to apply as interim period between a usual Sunday holiday and any other handling holiday of more than 24 hours called during the remaining days of the week. The 72 hours of elapsed time is intended to apply only to the longer holiday which should be considered independently of the Sunday holidays. It is concluded, therefore, that authority in the marketing order for establishing harvesting or packing holidays should be provided under the terms and conditions therein set forth.

(f) The declared policy of the Act, *inter alia*, is to establish and maintain such orderly marketing conditions for lettuce grown in the production area as will tend to establish parity prices for such lettuce. Variations in the quantity of lettuce marketed from the Lower Valley have a direct effect upon the total quantity of lettuce available for market and being marketed which, in turn, have a direct effect upon farmers' lettuce prices. Reports by the Market News Service for the 1959-60 Lower Valley lettuce crop show that reductions in total lettuce shipments for particular weeks are accompanied by increases in terminal market and shipping point price levels which, in turn, are reflected in increased prices to growers. Reports for prior years show the same market reactions to reductions in supplies being marketed within particular weeks. Increases in lettuce supplies, it is found from the same sources, bring about opposite price reactions.

Lower Valley lettuce is marketed throughout the late fall, winter, and early spring. Lower Valley lettuce shipments have a direct effect upon total lettuce supplies being marketed or available for market during its marketing season. Lower Valley lettuce handlers maintain relatively constant communications with terminal markets and with other lettuce producing areas in their efforts to gauge total supplies and to calculate market price reactions. Lower Valley handlers shift their harvesting and packing operations within particular weeks of the marketing season, either increasing or reducing their handling, in their efforts to supply markets with quantities deemed most advantageous in terms of market prices.

Proponents' experience in other producing areas shows that quantity controls of lettuce shipments on a weekly basis help promote orderly marketing by preventing excessive, price depressing supplies in terminal markets; also by assuring lettuce buyers that distributors' equities in lettuce purchased at particular supply-price levels will not be jeopardized by sudden shifts in daily or weekly shipments which threaten price stability and create hazardous risks in handling and distributing the commodity.

Other producing areas have promoted orderly marketing conditions for winter lettuce by limiting, when necessary, total quantities of lettuce being marketed. Lower Valley lettuce growers and handlers are acquainted with facts relating to quantity limitations of shipments in other producing areas and the attendant supply-price relationships. It is concluded, therefore, that a marketing program for Lower Valley lettuce whereby total quantities to be marketed could be limited, when supply-price relationships warrant, would help to promote orderly marketing and improve grower prices toward parity.

Coordination of Lower Valley lettuce supplies with marketings from other areas assists in promoting more orderly marketing conditions for all winter lettuce, including Lower Valley lettuce. Such improved marketing conditions directly affect Lower Valley lettuce growers' prices.

The marketing order's terms and conditions should provide, it is concluded on facts found, authority for fixing the total quantity of lettuce which may be handled during any week or any other period or periods. The proportion of the total quantity which may be so shipped by each handler shall be determined by establishing an allocation base for each handler who has applied for one, and who has proven by the control of available supplies of lettuce his right to an allocation base. Each handler with lettuce available for shipment and who has so declared it, shall be entitled to his equitable proportion of the total quantity fixed by regulation for handling. Each handler's equitable proportion shall be determined by his allocation base which shall represent the ratio between the total quantity of lettuce available for shipment by each applicant and the total quantity of lettuce available for shipments by all such applicants for allocation bases. The determination of allocation bases are essential and relatively unavoidable, as the computation of total supplies available by all persons must be accumulated from estimates for each person with marketable lettuce. The fixing of an allocation base for each person thereby becomes a relatively simple calculation of each person's proportion of the total quantity available for current marketing.

Limitation of the total quantity of lettuce which may be marketed in any given week, or other specific period, is found to have a direct effect on growers' lettuce prices. The even flow of lettuce shipments throughout each day of a week or other periodic marketing periods also

promotes orderly marketing in the interest of producers and consumers and thereby improves farmers' lettuce prices. Regulation of the volume of weekly or other periodic lettuce shipments through the methods provided for limiting the total quantity that may be handled during any such period, with provisions for allotting the amount of lettuce each handler may handle under uniform rules for equitable apportionment of such quantities among producers, as authorized by the Act, provides a reasonable and practical means for carrying out the policies of the act. It is essential, on facts found, that the marketing order should authorize the committee to recommend an increase in the quantity of lettuce that may be handled in any week or other period in the event market conditions warrant such changes. The Secretary should increase or fix the total quantity of lettuce which may be handled from the Lower Valley during any particular week or other allotment period whenever he finds, from recommendations or other information submitted by the committee or from other available information, that to so limit the quantity of lettuce to that fixed by him would tend to effectuate the declared policy of the Act.

Proponents established on the basis of experience in the Lower Valley and in other lettuce producing areas similar to the Lower Valley that a relatively constant, even daily flow of lettuce to terminal markets promotes orderly marketing conditions by establishing buyer's confidence in market stability. Proponents' experience, it is found, shows such orderly marketing to be in the interests of producers and consumers and tends to assure producers of sufficiently stable farm prices to maintain continuing harvesting and packing, and concurrently assuring consumers of a continuing ample supply of the commodity at stable prices. The establishment of a proportion of a handler's allotment which he may not exceed in any one day, as provided for in the marketing order will promote orderly marketing through an even flow of lettuce to market, and, thereby, promote orderly marketing in the interests of producers and consumers and the establishment and maintenance of parity prices for Lower Valley lettuce.

Some Lower Valley shippers handle lettuce produced only by themselves; others also handle lettuce grown by other producers. Any person who owns or controls lettuce may apply for an allotment and, upon fulfilling the terms and conditions established by the marketing order, receive an allotment. The record evidence discloses that most growers, will rely on shippers acting as handlers to apply for and receive allotments covering their available lettuce supplies for current marketing. Handlers should be assured of an equitable apportionment of the total quantity fixed by the Secretary for handling by establishment of an allotment base for each handler. Similarly, each grower whose lettuce is a portion of a handler's available supply should be assured of his equitable portion of the handler's allotment. Authority for establishing methods to accomplish this objective through the issuance

of uniform rules is contained in the act and the plan submitted by proponents is consistent with this authority. It is also found that such rules should recognize the practical problems of managing, harvesting and packing lettuce; also difficulties in moving from field to field and the practical necessity, in some instances, of harvesting and packing all allowable or allotted lettuce from a grower's field within a single operation where the quantity involved is small, rather than harvesting less than commercially economical or feasible quantities each day of a week. Such rules should also recognize, and provide to the extent practicable, for exigences of weather and other commonly accepted hazards beyond normal control of prudent, skilled management.

The terms and conditions of the marketing order, it is concluded on facts found, should provide, under uniform rules as required by the act, for equitable apportionment of handler's allotments of lettuce among producers thereof. The marketing order authorizes the development of such rules by the committee, with approval of the Secretary. Such rules are found to be incidental to, not inconsistent with, and necessary for administration of the marketing order.

Accurate, adequate supply information is an essential basis for quantity or volume regulations on Lower Valley lettuce. Development of supply information showing accurate estimates for each person's available supplies during each period of proposed regulation is a difficult, complicated process. Cooperation of all parties concerned is essential to insure reasonable, successful, and equitable administration of quantity regulations under the marketing order. Coordination of industry and committee operations also is essential to effective operation of volume limitations under the marketing order. Authority for issuance of quantity regulations, as hereinbefore found and concluded, is appropriate and necessary in the marketing order. Also, on the facts found, it is concluded that quantity regulations should be issued by the Secretary only in conjunction with and upon determinations that the committee and handlers have complied, or are prepared to comply, with the terms and conditions of the marketing order relating to applications for allotment bases, estimates of individual person's available supplies and total available supplies of lettuce, the proportion of total available supplies owned or controlled by individual shippers, and pursuant to such administrative rules and regulations, which are incidental to, not inconsistent with the terms and conditions of the act, and necessary to effectuate the other provisions of the marketing order.

Regulations of the Secretary fixing the total quantity of Lower Valley lettuce which may be handled pursuant to the provisions of the order governing the equitable apportionment thereof among handlers and producers involves a series of estimates, calculations, determinations, and allocations. These are administrative functions and duties and are the responsibility of the local adminis-

trative agency—the South Texas Lettuce Committee—and its staff. The primary objectives of these administrative functions are to provide factual bases for determining available supplies of lettuce during current shipping periods, the portion of available supplies owned or controlled by each person declaring his intent to market, and the equitable apportionment of allottable quantities fixed by regulation among handlers with available supplies.

These objectives can be accomplished through provision for appropriate committee functions whereby estimates can be made of current quantities available for sale, harvest, or packing by any or all persons. Estimates may be computed in the name of handlers, if they control the marketing of lettuce. Evidence of control shall be in terms of contracts, or such proof as the committee, pursuant to rule, deems customarily adequate. Committee functions and duties in connection with computing estimates, calculating available supplies, determining allocation bases, and equitably distributing a handler's allotments among producers of such lettuce involves numerous details and necessitates authority in the terms and conditions of the marketing order to cope with harvesting and marketing problems through issuance of uniform rules. Such rules shall follow the principles set forth in the marketing order and shall be limited to those incidental to, not inconsistent with authority for quantity regulations and the apportionment of handlers allotments among producers thereof, and necessary for carrying out administrative terms and conditions of the marketing order. Such rules may require each person who has lettuce for harvesting or packing, and who desires to do so, to apply for an allotment base. The manner of applying, the time in which application may be made, and the forms for applying may be prescribed by the committee with approval of the Secretary.

Each applicant may also be required to present evidence of ownership or control of lettuce, with identification of fields or portions thereof from which lettuce is to be harvested. Authority for rules in connection with applications should allow the committee to require adequate evidence of quantities available for harvest, whether by ownership or control, and other conditions customarily associated with handling a crop of lettuce.

Lettuce is customarily harvested in two or more cuttings, usually several days to a week apart. Experienced lettuce growers and handlers estimate quite accurately the percentage of particular fields which can and should be harvested each week during a specific field's harvest period. This industry practice is essential, it is found, to administration of the marketing order during periods of quantity regulation. The marketing order should provide, it is therefore concluded, that each applicant for an allotment shall state the harvesting percentages he intends to follow for each week. The committee should be authorized to establish rules for establishing and notifying interested

parties of the formulas by which ranges of harvesting percentages may be determined and within which declarations may be made.

Estimates of quantities of lettuce available for sale, harvesting, packing, or other handling presents a difficult problem with which the committee should be authorized to cope through proper checks and determinations. Proponents' experience emphasizes the essential need for the committee's authority to investigate applications through field checks and other customary means to determine and promote accuracy of individual and total supply estimates. Proponents also urged support, based on their experience, for committee authority to check estimates, correct errors, omissions, or inaccuracies in estimates. In doing so, the committee staff shall provide reasonable opportunity for applicants to discuss such changes. It is concluded therefore, that the terms and conditions of the marketing order should provide, as set forth therein, for committee verification of estimates.

Each week when quantity regulations are likely to be issued, the committee, pursuant to the applications submitted and its verification of estimates thereon, shall compute the total quantity of lettuce available for current shipment by each person who has applied for an allocation base and for allotments. The committee shall also fix the allocation base for each applicant with proven available supplies. The allocation base for each qualified applicant shall be his equitable portion of total available supplies based on the ratio of his individual total available to all total available supplies of all applicants. The committee shall thereupon notify the Secretary of the allocation base recommended for each handler.

After the Secretary has fixed the total quantity of lettuce which may be handled by all handlers during any week or other period, the committee shall then calculate the specific quantity of lettuce which may be handled by each person during such period. The quantity so fixed for each person shall be his pro rata allotment. Each pro-rata allotment shall be computed by applying each person's allocation base (i.e., the ratio of the total supply he has available to the total of all supplies available), to the total quantity of lettuce fixed by the Secretary as the amount which may be handled by all handlers during the specific period. Proponents' experience in other producing areas supports the feasibility and practicality of establishing such methods in the marketing order. An example cited in the record assumes total available supplies for handling during a week's period are 400,000 cartons and a particular handler has 4,000 cartons available. The allocation base of the individual handler is one percent of total available supplies. If the Secretary fixes the total quantity authorized for shipment by all handlers as 300,000 cartons, then the individual handler's allotment is the product of his allocation base, or one percent, times the total quantity fixed, 300,000 cartons, or 3,000 cartons. It is concluded therefore, on facts found, that the terms and con-

ditions of the marketing order should provide for calculation by the committee of each handler's allotment and provide methods for determining each grower's equitable apportionment of such allotments. Also, the committee should be required to provide reasonable notice of respective allotments to persons with allotments, through bulletins, correspondence, or through other means of communication.

Proponents emphasized, due to their experience, the importance of maintaining accurate estimates of lettuce available for sale, with evidence of the lettuce fields and ownership thereof backing up such estimates, on the basis of which the total quantity which may be handled during a specific period is fixed. They also emphasized the corollary of this proposition, namely, when all lettuce allotted to a particular field has been harvested, but some marketable lettuce remains, such unharvested lettuce should be marked, "red tagged," or otherwise appropriately identified as no longer available for marketing; also, no longer eligible for declaration as a part of available supplies, and no longer eligible for sale, packaging, or handling in any way, unless all fields of lettuce previously declared as part of available supplies for such period are determined and declared as eligible for marketing and handling. It is concluded therefore, on facts found, that the marketing order should provide methods for prohibiting the handling of lettuce without an allotment applicable to such lettuce.

Problems of adjustments in allotments may arise in administration of the marketing order. All problems of this type cannot be fully anticipated. Some may arise due to unusually hot or unusually cool weather, or perhaps wet weather. Again, other conditions may affect harvestability of lettuce. Unforeseen management problems may also eventuate. The committee should be authorized to consider such problems and, by reason of such contingencies, to adjust allotments equitably among interested parties.

In order to accomplish such objectives, the marketing order should authorize issuance of appropriate rules establishing standards of operation for such adjustments. The general criteria set forth in the terms and conditions of the order are found appropriate and proper as a basis for considering and recommending such rules by the committee.

Whenever quantity regulations are in effect, evidence of compliance with such allotments is an essential attribute of proper enforcement. Truck shipments present a special problem necessitating adequate, effective measures of compliance. On shipments by rail, manifests are made available by the carriers, whereas similar evidence of movement by trucks is not as readily or extensively available. Enforcement responsibilities necessitate adequate authority for the committee to require, when necessary, that each truck shipment should be accompanied by evidence of handling under allotment. It is concluded, therefore, that authority for assignment of allotments for truck shipments on forms issued and prescribed by the committee

should be in the marketing order because it is necessary for and incidental to administration of the program.

(g) As hereinbefore found and concluded, the terms and conditions of the marketing order should provide authority for issuing grade, size, and quality regulations, also volume regulations, which will tend to establish parity prices for lettuce in the Lower Valley, Texas.

It is found also that some lettuce is of such low quality and undesirable sizes that it disturbs marketing conditions, unduly depresses grower prices, and does not offer reasonable consumer satisfaction at any time, regardless of price levels for the commodity. Also, consumers usually are dissatisfied with such low quality lettuce because, even though supplies are scarce, the commodity values are disproportionately low to purchasers' expenditures. Therefore, it is not in the public interest to permit shipments of such low quality or unmarketable size lettuce irrespective of the price level.

It is found also that lettuce prices, particularly producer prices, fluctuate in direct response to changes in daily and weekly shipments. Lettuce buyers and shippers gauge their price calculations on customary measures or reports of available market supplies. Wholesale market receivers and distributors are disturbed frequently by prospects that supplies purchased at then current price levels may, before final disposition, be adversely affected market-wise by excessive increases of unanticipated shipments coming onto the market. Marketing disorder caused thereby is reflected in retail markets and in producer prices. Consumers' interests are adversely affected by fluctuations in supplies and their effect, in turn, on consumer prices. Experienced handlers find total supplies moving continuously to market are greater under steady, even shipments than they are with wide fluctuations creating glutted or relatively bare markets.

An even flow of supplies promotes orderly marketing and avoids undue fluctuations in prices, which are in the interests of producers and consumers. Therefore, the terms and conditions of the marketing order should authorize, when prices to farmers exceed parity, the establishment and maintenance of such orderly marketing conditions for lettuce as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market through its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

The marketing order should have authority providing for the amendment, modification, suspension, or termination of regulations whenever such action is warranted upon recommendation of the committee or other available information. The need for this authority is obvious in that flexibility will oftentimes be required to adjust regulations so as to effectuate the declared policies of the Act. Likewise, it is obvious that if regulations no longer tend to effectuate the declared policy of the Act they should be terminated.

Sales or gifts of small quantities deemed unimportant commercially by proponents should be recognized and handled in a customary manner apart from usual trade channels in Lower Valley lettuce. Therefore, the marketing order should provide authority for considering and establishing on small quantities appropriate exceptions to any or all quality or quantity regulations.

The marketing order is intended primarily to promote orderly marketing conditions with respect to commercial shipments, that is, carlots or truck lots of lettuce going into the markets. However, some smaller shipments are made which constitute a very minor percentage of the total movement and are much smaller in volume than commercial shipments. Most handlers may deal from time to time in accommodation sales or they may give their product to friends. Such handling makes a minor, if not minute, portion of shipments, usually considered as noncommercial sales or shipments. They also are in a nuisance category in terms of most handlers' daily business; also they are in a similar category insofar as regulations under the marketing order would be concerned. Therefore, the marketing order should provide authority for relief for such shipments from regulations, assessments, or inspection when such is in the best interests of program objectives.

(h) The Secretary should be authorized upon the basis of the recommendations and information submitted by the committee to modify, suspend or terminate regulations with respect to the handling of lettuce for purposes other than for disposition in normal trade channels. Lettuce moving to or serving such outlets is usually handled in a different manner, or such outlets usually accept different grades, sizes, qualities, packs, and containers, or different prices are returned, or combinations of such considerations may apply. Such shipments usually do not have any appreciable effect on the marketing of the great bulk of lettuce handled in commercial markets. The marketing order should provide authority for the committee to give appropriate consideration to the handling of lettuce for such purposes so that every opportunity may be taken to promote orderly marketing conditions for lettuce thereby tending to increase total returns to lettuce growers in the production area.

Such outlets would be for relief or for charities, experimental purposes, export, livestock feed, or for other purposes which may become apparent in the future and which would be specified by the committee and approved by the Secretary. Most shipments intended for relief or for charities are usually by the way of donation or due to some special consideration between the shipper and the receiver. Occasionally shipments are made to orphan homes or to veterans' hospitals or some other facility and the committee should have authority to recommend waiving requirements in regard to these shipments in that they do not interfere with regular commercial movement. Shipments are sometimes made for experimental purposes. Many times

shipments of lettuce are made in order to study improved varieties or improved shipping containers, or in order to develop new markets for lettuce. Since these studies are intended to benefit the industry as a whole, no particular purpose would be derived by the application of all the requirements of the marketing order program with respect to them. Some export markets accept or prefer certain grades and particularly some sizes which normally are discounted for domestic markets. The marketing order should provide for appropriate modification, suspension or termination of regulations with respect to movement of lettuce to export outlets so that these demands can be met and the sale of the lettuce grown in the production area will continue to such markets. Some Canadian markets reflect distinctive demand for particular sizes of lettuce. Also, occasional sales of lettuce are made to Mexico. The distinction in export demand should be recognized under the marketing order and authority provided for regulating accordingly.

Lettuce is not considered a canning or freezing crop. However, since the act states an exception for vegetables for canning or freezing, such statutory exception is recognized and provided for under the terms and conditions of the marketing order.

Although the extent to which lettuce is used as livestock feed is quite limited, provision for free movement of the commodity to such salvage outlet is warranted and provided for accordingly. Such movement should not be controlled by volume or quality limitations except to the extent that safeguard procedures are necessary to see that the lettuce is actually fed and not diverted to other markets.

Other outlets or special purposes may possibly arise which are not well known at this time. If it is found that such outlets are not competitive with fresh market channels the committee may recommend and the Secretary may approve that such movement should be permitted without regard to other quality or quantity regulations.

The authority for modifying, suspending, or terminating grade, size, quality, assessment, or inspection regulations should be accompanied by additional administrative authority for the committee to recommend and the Secretary to prescribe adequate safeguards to prevent shipments for such purposes from entering market channels contrary to provisions of such special regulations. The authority for the establishment of safeguards should include such limitations or appropriate qualifications on shipments which are necessary and incidental for proper and efficient administration of the marketing order.

(i) Inspection of lettuce grown in the production area by the Federal-State Inspection Service is necessary to determine officially whether shipments meet requirements effective under marketing order regulations. Federal or Federal-State Inspection Service has operated in the State of Texas for a number of years. Lettuce growers and handlers throughout the production area are well acquainted with the service and with the

inspection which it offers on shipments of lettuce. The service is available to handlers throughout the entire production area and reasonably prompt inspection can be given at all Lower Valley shipping points. Inspection is commonly made when lettuce is being cut and packed in the field. Also, inspection is commonly made at the vacuum cooler. Also, inspection may be provided at any other reasonable point where volume warrants. Provision should be made in the marketing order for inspection of lettuce grown in the production area by the Federal-State Inspection Service during any period in which the handling of lettuce is required to be inspected under the program. Inspection and certification requirements should apply to all lettuce shipped under regulations issued under the marketing order, except when relieved therefrom pursuant to rules and regulations applicable to minimum quantities, special purpose shipments, or when lettuce is regraded.

Inspection and certification requirements are necessary so that the shipper as well as subsequent handlers, the committee, and other interested parties may determine if shipments comply with the regulations in effect and applicable to such shipments. Effective regulation of the handling of lettuce grown in the production area requires evidence that each shipment is in compliance with marketing order regulations. The provision for inspection and certification affords a practical means of establishing the fact that the shipments do comply and can be so identified.

Responsibility for obtaining inspection will fall primarily on the handler who first handles lettuce after it has been prepared for market since he is usually the person responsible for the volume being handled and for the grade, size, quality, pack and container in which the lettuce is being shipped or handled. However, each handler regardless of whether the first or subsequent handler should be required to bear responsibility for determining that each of his shipments is inspected and certified.

If a handler should receive lettuce which has not been inspected he should be responsible for having it inspected before selling or transporting it. This procedure avoids the potential shift of responsibility which would be expected to occur in the absence of making each handler responsible for inspection and certification of any uninspected lettuce handled by him. This requirement is also necessary so that the committee can obtain evidence in the form of inspection certificates to determine whether regulatory requirements are being met.

Whenever any shipments of lettuce subject to regulation have been inspected, but are later dumped from the containers in which they were inspected, or the lot on which the inspection certificate was issued is broken up, such lettuce can no longer be specifically identified with reference to the inspection certificate. If any such lot of lettuce should thereafter be repacked, the repacked lettuce has a new identity.

However, any subsequent handling of such lettuce should be in compliance with regulations. Otherwise, effective regulation will not be obtained. Therefore, the marketing order should provide that the committee may require the person who handles lettuce after a lot has been broken, repacked, resorted, or regraded to have such lettuce reinspected and recertified prior to additional handling so that the shipper thereof, as well as subsequent handlers and the committee, may determine that such lettuce shipments comply with regulations in effect and applicable thereto.

The committee may prescribe rules and regulations, subject to approval by the Secretary, whereby any or all lettuce inspected shall be identified by appropriate seals, stamps, or tags affixed to the containers by the handler. In areas where inspections may be made at more than one customary point in the handling process, compliance problems under a marketing order program can be more difficult than in other areas where all lots are inspected at time of packaging. Also, in areas where truck movement is relatively important, compliance can be a problem. Both types of situations apply to the production area.

The marketing requirement, if used, would assist in preventing uninspected lots from being substituted for inspected lots and trucks from moving out of the production area with uninspected lettuce when check stations are not being operated. Therefore, it is concluded that the provision for identifying shipments or containers by marking or labeling under appropriate rules and regulations recommended by the committee and approved by the Secretary is necessary and incidental to successful operation of the marketing order, and should be included therein.

The committee with the approval of the Secretary should be authorized to determine the length of time an inspection certificate is valid insofar as the requirements of the proposed marketing order are concerned. Such requirement is appropriate and necessary especially with respect to special inspections which might be administratively desirable to accommodate handlers and truckers. It would not be practical and feasible for the committee to rely upon inspection certificates which are not reasonably current.

Texas lettuce is marketed soon after harvest and is perishable. If held for unreasonable lengths of time it could deteriorate to the point where it would not meet regulations in effect at actual time of shipment and would no longer conform to the findings on the inspection certificate.

Copies of inspection certificates issued pursuant to the requirements of the marketing order should be supplied to the committee promptly so it can discharge its administrative responsibilities under the program.

The committee should be authorized to recommend, and the Secretary to issue, regulations requiring that lettuce transported by motor vehicle shall be accompanied by a copy of the inspection certificate issued thereon or by other approved evidence of inspection. These

requirements may include the surrender of such documents to such authority or agency as designated by the Secretary upon committee recommendation. The committee is authorized under the marketing order to administer its terms and provisions and this procedure enables the committee to enforce regulations in connection with the movement of lettuce passing through compliance check stations which may be set up along the production area boundary. Since a sizable percentage of lettuce produced in the production area moves by truck such authority is necessary to effectuate the other provisions of the marketing order.

(j) The committee should have authority, with the approval of the Secretary, to require that handlers submit to it such reports and information as are needed to perform its functions. Estimates of available supplies, both as to quantity and quality, necessitate information on acreage, time of planting, probable time of harvest, prospective yields, condition, probable grades, and sizes for the crop generally. Need exists also for reports from individual handlers for similar information, as well as to the amount harvested or otherwise handled within specific periods. Reports from handlers are needed also on the distribution of allotments among growers whose lettuce is being handled by others.

To provide a basis for reports essential for administration of the marketing order, it is essential that each handler shall keep records of the lettuce handled by him on his own behalf, on behalf of others, including both producers and shippers, and on the disposition of such lettuce. Records of quantities of lettuce moving through the vacuum cooler are an example of the type of reports the committee may require from handlers. The committee may also request individual reports on final disposal of lettuce included in available supplies which was in excess of allotments as a necessary administrative technique for assuring compliance. The administrative standards to be followed by the committee in requesting handlers to furnish reports should pursue lines set forth in § 1034.80, limiting such reports to those necessary for committee operations in carrying out its responsibilities under the marketing order. Reports furnished to the committee should be submitted in such manner and at such times as may be designated by it. Such reporting procedures should accord with the need and requirements of the committee which are essential to administration of the marketing order because changing conditions may warrant changes in the forms and methods of reporting. The right to approve, and also to modify, change, or rescind, any requests by the committee for information in order to protect handlers from unreasonable requests for reports is retained by the Secretary.

Since it is possible that a question may arise with respect to compliance with the marketing order, each handler should maintain complete records of his handling and disposition of lettuce for a period of not less than two years sub-

sequent to the termination of each crop year.

Any and all reports and records submitted for committee use by handlers shall remain under appropriate protective classification and be disclosed to none other than persons authorized by the Secretary. Such reports would become part of the committee's and the Secretary's records.

(k) Except as provided in the order, no handler should be permitted to handle lettuce, the handling of which is prohibited by rules or regulations issued under the marketing order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry measured by the proportion of lettuce handled by him, such action would, in any appreciable aggregate, tend to impair operation of the program and otherwise render it ineffective.

(l) The provisions of §§ 1034.82 through 1034.92, as published in the FEDERAL REGISTER of May 20, 1960 (25 F.R. 4476), and as hereinafter set forth, are common to marketing orders now operating. The provisions of §§ 1034.93 through 1034.95, as hereinafter set forth, are also included in other marketing agreements now operating. Each such section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing order. These provisions are incidental to, and not inconsistent with, section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the marketing order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the marketing order.

General findings. Upon the basis of evidence introduced in the hearing and the record thereof it is found that:

(1) The marketing order as hereinafter set forth, and all of the terms and provisions thereof, will tend to effectuate the declared policy of the act with respect to lettuce produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets; (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such lettuce above the parity level; (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such lettuce as will be in the public interest; and (iv) by authorizing the establishment and maintenance of such orderly marketing conditions as will pro-

vide, in the interests of producers and consumers an orderly flow of lettuce supplies to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(2) The said marketing order authorizes regulation of the handling of lettuce grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in a proposed marketing order upon which the hearing has been held;

(3) The said marketing order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of lettuce grown in the production area; and

(5) All handling of lettuce, as defined in the said marketing order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order are recommended as the detailed means by which the aforesaid conclusions may be carried out.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Lettuce Grown in the Lower Rio Grande Valley in South Texas" and "Order Regulating the Handling of Lettuce Grown in the Lower Rio Grande Valley in South Texas" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid marketing agreement and the aforesaid order shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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

Order¹ Regulating the Handling of Lettuce Grown in the Lower Rio Grande Valley in South Texas

Sec.	
1034.0	Findings and determinations.
DEFINITIONS	
1034.1	Secretary.
1034.2	Act.

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

Sec.	
1034.3	Person.
1034.4	Production area.
1034.5	Lettuce.
1034.6	Handler.
1034.7	Handle.
1034.8	Registered handler.
1034.9	Producer.
1034.10	Grade and size.
1034.11	Pack.
1034.12	Container.
1034.13	Varieties.
1034.14	Committee.
1034.15	Fiscal period.
1034.16	Export.
COMMITTEE	
1034.20	Establishment and membership.
1034.21	Selection.
1034.22	Term of office.
1034.23	Nominations.
1034.24	Failure to nominate.
1034.25	Acceptance.
1034.26	Vacancies.
1034.27	Alternate members.
1034.28	Procedure.
1034.29	Expenses and compensation.
1034.30	Powers.
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AUTHORITY: §§ 1034.0 to 1034.92, issued pursuant to secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1034.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 25 F.R. 5907), a public hearing was held in Edinburg, Texas, June 6-7, 1960, upon a proposed marketing agreement and a proposed marketing order regulating the handling of lettuce grown in the Lower Rio Grande Valley

in South Texas. On the basis of the evidence introduced at said hearing and the record thereof, it is found that:

(1) The marketing order as herein-after set forth, and all of the terms and provisions thereof, will tend to effectuate the declared policy of the act with respect to lettuce produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets; (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such lettuce above the parity level; (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such lettuce as will be in the public interest; and (iv) by authorizing the establishment and maintenance of such orderly marketing conditions as will provide, in the interests of producers and consumers an orderly flow of lettuce supplies to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(2) The said marketing order authorizes regulation of the handling of lettuce grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in a proposed marketing order upon which the hearing has been held;

(3) The said marketing order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of lettuce grown in the production area; and

(5) All handling of lettuce, as defined in the said marketing order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Order relative to handling. It is, therefore, ordered that on and after the effective time hereof the handling of lettuce grown in Cameron, Hidalgo, Starr, and Willacy Counties in the Lower Rio Grande Valley in South Texas shall be in conformity to and in compliance with the terms and conditions of this order, and such terms and conditions are as follows:

DEFINITIONS

§ 1034.1 Secretary.

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

§ 1034.2 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 (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 1034.3 Person.

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

§ 1034.4 Production area.

"Production Area" means the counties of Cameron, Hidalgo, Starr, and Willacy, in the State of Texas.

§ 1034.5 Lettuce.

"Lettuce" means all varieties of *Lactuca sativa*, commonly known as iceberg type head lettuce, grown within the production area.

§ 1034.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of lettuce owned by another person) who handles lettuce or causes lettuce to be handled.

§ 1034.7 Handle.

"Handle" or "ship" means to package, sell, transport, or in any other way to place lettuce in the current of the commerce within the production area or between the production area and any point outside thereof. The sale or transportation of lettuce by the producer thereof to a person within the production area who is a registered handler is excepted from the aforesaid definition.

§ 1034.8 Registered handler.

"Registered handler" means any person with adequate facilities within the production area for preparing lettuce for commercial market, who customarily does so, and who is so recorded by the committee, or any person who has access to such facilities within the production area and has recorded with the committee his ability and willingness to assume customary obligations of preparing lettuce for commercial market.

§ 1034.9 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of lettuce for market.

§ 1034.10 Grade and size.

"Grade" means any of the established grades of lettuce and "size" means any of the established sizes of lettuce as defined and set forth in U.S. Standards for Lettuce (§§ 51.2510 to 51.2524 of this title) issued by the United States Department of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon, recommended

by the committee and approved by the Secretary.

§ 1034.11 Pack.

"Pack" means a quantity of lettuce in any type of container and which falls within specific weight limits, numerical limits, grade limits, size limits or any combination of these, recommended by the committee and approved by the Secretary.

§ 1034.12 Container.

"Container" means a carton, crate, box, bag, hamper, basket, package, or any other type of receptacle used in handling lettuce.

§ 1034.13 Varieties.

"Varieties" means and includes all classifications, subdivisions, or types of lettuce according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture or recommended by the committee, and approved by the Secretary.

§ 1034.14 Committee.

"Committee" means the South Texas Lettuce Committee, established pursuant to § 1034.20.

§ 1034.15 Fiscal period.

"Fiscal period" means the annual period beginning and ending on such dates as may be approved by the Secretary pursuant to recommendations of the committee.

§ 1034.16 Export.

"Export" means shipment of lettuce to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

COMMITTEE

§ 1034.20 Establishment and membership.

(a) The South Texas Lettuce Committee is hereby established. It shall consist of eleven members, with alternates, of whom seven shall be producers and four shall be handlers.

(b) Each committee member or alternate shall be an individual who is (1) a resident of the production area, and (2) a producer or a handler, or officer or employee of a producer or handler or of a producers' cooperative marketing organization.

§ 1034.21 Selection.

Committee members and alternates shall be selected by the Secretary from the production area at large. Producers and handlers, respectively, shall submit nominees to the Secretary from which members and alternates may be selected.

§ 1034.22 Term of office.

(a) The term of office of committee members and their respective alternates shall be for two years and shall begin as of August 1 and end as of July 31. The term shall be so determined that about one-half of the total committee membership shall terminate each year.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof

beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 1034.23 Nominations.

Nominations for committee members and alternates may be made as follows:

(a) A meeting or meetings for election of nominees may be held for the production area at large;

(b) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee;

(c) Nominations for committee members and alternates shall be supplied to the Secretary in such manner and form as he may prescribe not later than July 15 of each year;

(d) Only producers may participate in designating producer nominees, and only handlers may participate in naming handler nominees;

(e) Each person, whether producer or handler, is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled.

§ 1034.24 Failure to nominate.

If nominations are not made within the time and in the manner specified in § 1034.23 the Secretary may, without regard to nominations, select the committee members and alternates, which selections shall be on the basis of the representation provided for in § 1034.20.

§ 1034.25 Acceptance.

Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 1034.26 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the current nominee list, or from nominations made in the manner specified in § 1034.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations.

§ 1034.27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence or when designated to do so by the member for whom he is an alternate. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 1034.28 Procedure.

(a) Seven members of the committee shall be necessary to constitute a quorum. Seven concurring votes shall be required to pass any motion or approve any committee action. At assembled meetings all votes shall be cast in person.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing. On such occasions unanimous vote of all committee members voting will be required to approve any action.

§ 1034.29 Expenses and compensation.

Committee members and alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part. In addition they may receive compensation at a rate to be determined by the committee and approved by the Secretary.

§ 1034.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1034.31 Duties.

It shall be, among other things, the duty of the committee:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members or alternates, to provide for consultants and their services, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the salaries and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to lettuce;

(f) To prepare a marketing policy;

(g) To recommend marketing regulations to the Secretary;

(h) To recommend rules and procedures for, and to make determinations in connection with, issuance of Certificates of Privilege;

(i) To keep minutes, books, and records which clearly reflect all of the

acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or by his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary. At the end of each marketing season a statistical and historical report of operations shall be compiled and furnished to the Secretary.

(j) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(k) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. A copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(l) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

EXPENSES AND ASSESSMENTS

§ 1034.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of lettuce under regulation handled by him as the first handler thereof during a fiscal period and the total quantity of lettuce under regulation handled by all handlers as first handlers thereof during such fiscal period.

§ 1034.41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ 1034.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles lettuce which is regulated under this part shall pay assessments to the committee upon demand, which assessments shall be in payment

of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all lettuce which was regulated under this part and which was handled by the first handler thereof during such fiscal period.

§ 1034.43 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately and to the extent practical to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided for in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary and appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The committee may make recommendations to the Secretary for one or more of the members, thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

RESEARCH AND DEVELOPMENT

§ 1034.48 Research and development.

The committee, with the approval of the Secretary may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of lettuce. The expenses of such projects shall be paid from funds collected pursuant to § 1034.42.

REGULATIONS

§ 1034.50 Marketing policy.

(a) At the beginning of each season, and as the Secretary may require, the committee shall prepare a marketing policy statement. Such policy statement shall indicate the data on lettuce supplies and demand on which the committee bases its judgments and recommendations. It shall indicate also the kind or types of regulations contemplated during the ensuing season, and, to the extent practical, shall include recommendations for specific regulations. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available generally.

(b) Marketing policy statements relating to recommendations for regulations other than volume regulation shall give appropriate consideration to lettuce supplies for the remainder of the season, with special consideration to:

- (1) Estimates of total supplies including grade, size, and quality thereof, in the production area;
- (2) Estimates of supplies in competing areas;
- (3) Market prices by grades, sizes, containers, and packs;
- (4) Estimates of supplies of competing commodities;
- (5) Anticipated marketing problems;
- (6) Level and trend of consumer income; and
- (7) Other relevant factors.

(c) Marketing policy statements relating to recommendations for volume regulations shall give special consideration to:

- (1) Estimates of total lettuce supplies, and the quality and condition thereof, in the production area for the immediately succeeding regulation periods;
- (2) Estimates of lettuce supplies, and quality and condition thereof, in competing areas;

(3) Lettuce prices by grades, sizes, containers, and packs, to growers, to handlers, and in receiving markets;

(4) Anticipated special marketing problems, and

(5) Other relevant factors.

§ 1034.51 Recommendations for regulations.

(a) Upon complying with the requirements of § 1034.50, the committee may recommend regulations to the Secretary whenever it finds that such regulations as are provided for in this subpart will tend to effectuate the declared policy of the Act.

(b) At any time during a specified period for which the Secretary has fixed the quantity of lettuce which may be handled, if the committee deems such action advisable, it may recommend to the Secretary that such quantity be increased for such period. The committee's reasons therefor shall be submitted with any such recommendation.

§ 1034.52 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of lettuce whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the Act.

(b) Such regulations may:

(1) Limit in any or all portions of the production area the handling of particular grades, sizes, qualities, or packs, or any combination thereof, of any or all varieties of lettuce during any period.

(2) Limit the handling of particular grades, sizes, qualities, or packs of lettuce differently for different varieties, for different portions of the production area, for different markets, for different containers, or any combination of the foregoing, during any period.

(3) Fix the size, capacity, weight, dimensions, or pack of the container or containers used in handling lettuce.

(4) Establish holidays by prohibiting the packaging of lettuce during a specified period or periods. No regulation issued pursuant hereto shall be effective for more than 72 hours, and not less than 72 hours shall elapse between the termination of any such holiday and the beginning of the next such period.

(5) (i) Fix the total quantity of lettuce which may be handled by all handlers during any period or periods. The total quantity so fixed for handling during any period may be increased by the Secretary during such period.

(ii) Fix the proportions of each handler's allotment which he may not exceed in any one day.

(6) Limit the handling of lettuce, when parity prices have been established, by establishing and maintaining minimum standards of quality and maturity in terms of grades or sizes, or an orderly flow of lettuce supplies to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices, or both.

(c) Quantity regulations may be issued upon determination that the terms and provisions of § 1034.53 have been met.

(d) Regulations issued hereunder may be amended, modified, suspended, or terminated whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or other available information;

(2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions;

(3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the Act.

§ 1034.53 Allocation bases and allotments.

(a) *Estimates of lettuce available for current shipment.* The committee, with approval of the Secretary, shall establish uniform rules for estimating available supplies of lettuce, or of any grade, size, or quality thereof, during any specified period or periods. Among other appropriate requirements, such rules may provide that:

(1) Each person who has lettuce available for current shipment shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for an allocation base and for allotments as provided in this part;

(2) Each application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least the name and address of the producer, or duly authorized agent, if any, for each field or portion thereof, from which lettuce is to be harvested and which is included in the quantity of lettuce available for current shipment by the applicant; an accurate description of the location of each such field or portion thereof, including the number of acres contained therein;

(3) Such application shall include only such lettuce for current shipment which the applicant controls by a bona fide written contract giving the applicant authority to handle such lettuce, or by having legal title or possession thereof, or by having executed a bona fide written agreement to purchase such lettuce;

(4) Each such application shall state the harvesting percentages for each week, or other specified allotment period, which the applicant intends to apply to particular, identified fields during such harvesting periods. Such declarations shall be pursuant to formulas established by the committee indicating the range of percentages which may be declared as available for harvest during each of the two or more weeks in which lettuce may be harvested from individual fields.

(b) *Committee verification.* The committee shall check and determine the accuracy of the information submitted pursuant to this section and shall be authorized to make a thorough investigation of any application. Whenever the committee finds an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted such report a reasonable opportunity to discuss with

the committee the factors considered in making the correction.

(c) *Allocation base.* Each week during the marketing season when volume regulation is likely to be recommended, the committee shall compute the total quantity of lettuce available for current shipment by each person who has applied for an allocation base and for allotments. On the basis of such computation, the committee shall fix an allocation base for each person entitled thereto. Such allocation base shall represent the ratio between the total quantity of lettuce available for current shipment by each applicant and the total quantity of lettuce available for current shipment by all such applicants for allocation bases. The committee shall notify the Secretary of the allocation base fixed for each person and shall notify each such person of the allocation base fixed for him.

(d) *Allotments.* (1) Whenever the Secretary has fixed the quantity of lettuce which may be handled during any week, the committee shall calculate the quantity of lettuce which may be handled by each such person during such week. The said quantity shall be the allotment of such person and shall be in an amount equivalent to the product of the allocation base of such person and the total quantity of lettuce fixed by the Secretary as the total quantity of lettuce which may be handled during such week. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this part.

(2) The committee, with approval of the Secretary, shall establish uniform rules to the end that handlers' allotments will be apportioned equitably among producers thereof.

(e) *Verification of compliance with allotments.* Fields or blocks of lettuce included in applications for allocation bases and allotments shall be checked from time to time, as deemed necessary by the committee, to determine compliance with allotments. Checking procedures, methods for establishing committee determinations, means for notifying handlers and other persons of the extent to which allotments on specific fields or blocks have been used, and provision for issuance of certificates of compliance with allotments shall be in accordance with rules recommended by the committee and approved by the Secretary. Such rules may also provide that a handler shall not package or sell lettuce from a field or fields on which allotments applicable to the available supply estimated therefor have been exhausted unless regulations in effect under § 1034.52(b)(5) are suspended or terminated.

(f) *Adjustment of allotments.* The committee may, pursuant to rules and regulations recommended by the committee and approved by the Secretary, provide for transferring or adjusting allotments during any allotment period. Such adjustments may be based upon factors such as weather, changes in maturity, condition, harvestability, changes in ownership or control of such lettuce, or other factors affecting the supplies of lettuce available for current shipment.

(g) *Assignment of allotments.* In connection with all shipments of lettuce other than shipments by rail car, the committee may require, pursuant to rules approved by the Secretary, that each such shipment shall be accompanied by an assignment of allotment covering such shipment provided by the first handler thereof. Such rules shall provide for appropriate forms, methods and manner of issuance thereof, and information to be required in connection therewith.

§ 1034.54 Handling for special purposes.

Regulations in effect pursuant to §§ 1034.42, 1034.52, or 1034.60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of lettuce for: (a) relief or charity; (b) experimental purposes; (c) exports; and (d) other special purposes.

§ 1034.55 Safeguards.

The committee, with the approval of the Secretary, may establish through rules the requirements with respect to proof that shipments made pursuant to § 1034.54 were handled and used for the purpose stated.

§ 1034.56 Notification of regulation.

The Secretary shall promptly notify the committee of regulations issued or of any modification, suspension, or termination thereof. The committee may give additional notice thereof to handlers.

INSPECTION

§ 1034.60 Inspection and certification.

(a) Whenever the handling of lettuce is regulated pursuant to § 1034.52, or at other times when recommended by the committee and approved by the Secretary, no handler shall handle lettuce unless it is inspected by an authorized representative of the Federal-State Inspection Service and it is covered by a valid inspection certificate, except when relieved from such requirements pursuant to § 1034.52(d) or § 1034.54, or paragraph (b) of this section.

(b) Regrading, resorting, repacking any lot of lettuce, or breaking any lot (without continuing identification of applicable inspection or sub-certification thereof), shall invalidate any prior inspection certificate insofar as the requirements of this section are concerned. No handler shall handle lettuce after a lot has been broken, regraded, repacked or resorted, or in any other way additionally prepared for market, unless such lettuce is inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of lettuce may be modified, suspended or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Upon recommendation of the committee and approval by the Secretary, any or all lettuce so inspected and certified shall be identified by appropriate seals, stamps, or tags, to be affixed to the containers by the handler under the

direction and supervision of a Federal or Federal-State inspector or the committee.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When lettuce is inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of lettuce by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other document authorized by the committee to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

REPORTS

§ 1034.80 Reports.

Upon request of the committee, made with the approval of the Secretary, handlers shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part. Where necessary for determining compliance with regulations, the committee may request reports from individual handlers with respect to specific sales, transportation, or other handling of lettuce.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) Fields or blocks of lettuce owned or controlled by applicants for allotments; (2) the quantities of lettuce harvested, packed, or otherwise handled by a handler; (3) quantities of lettuce harvested from particular fields or blocks thereof, with dates of harvest; (4) the quantities disposed of by a handler segregated as to the respective quantities subject to particular regulations and not subject to regulation; (5) the date of each such disposition and the identification of the carrier transporting such lettuce; and (6) identification of the inspection certificates relating to the lettuce which was handled pursuant to §§ 1034.52 and 1034.54.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employee thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the lettuce received, and of lettuce disposed of, by such handler as may be

necessary to verify the reports he submits to the committee pursuant to this section.

COMPLIANCE

§ 1034.81 Compliance.

Except as provided in this subpart, no handler shall handle lettuce, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle lettuce except in conformity to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 1034.82 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 1034.83 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 1034.84 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of lettuce for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such lettuce produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 1034.85 Proceeding after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, includ-

ing claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 1034.86 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (1) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 1034.87 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 1034.88 Agents.

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

§ 1034.89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1034.90 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others,

in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ 1034.91 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 1034.92 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the producers who, during the period August 1, 1959 through July 31, 1960 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged in the counties of Cameron, Hidalgo, Starr, and Willacy, in the Lower Rio Grande Valley, Texas, in the production of lettuce for market to ascertain whether such producers favor the issuance of the annexed order.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and Its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F.R. 5176).

W. J. Cremins and K. W. Schaible, Fruit and Vegetable Division, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture, to conduct said referendum jointly or severally. Said agents may appoint any person or persons to assist them in performing their functions hereunder.

Copies of the text of the aforesaid annexed order may be examined in the office of the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D.C., and at those places in the production area announced by the referendum agents.

Ballots to be cast in the referendum and copies of the text of the said order may be obtained from any referendum agent or any appointee hereunder.

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

Dated: October 27, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-10235; Filed, Oct. 31, 1960;
8:49 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INFORMATION RETURNS BY DOMESTIC CORPORATIONS WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS

Notice of Hearing on Proposed Regulations

Proposed regulations under section 6038 of the Code requiring information returns by domestic corporations with respect to certain foreign corporations were published in the FEDERAL REGISTER for October 28, 1960.

A public hearing on the provisions of these proposed regulations will be held on Tuesday, November 15, 1960, at 10:00 a.m., e.s.t., in Tax Court Room Number 2 (opposite Room 2139), Internal Revenue Building, Twelfth and Constitution Avenue NW., Washington, D.C.

Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by November 10, 1960.

[SEAL] PAUL T. MAGINNIS,
Acting Director, Technical Planning Division, Internal Revenue Service.

[F.R. Doc. 60-10280; Filed, Oct. 31, 1960;
10:03 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 601]

[Airspace Docket No. 60-WA-225]

CONTROL AREAS

Modification of Control Area Extension

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 § 601.1356 of the regulations of the Administrator, the substance of which is stated below.

The Greenville, Miss., control area extension is presently designated within a 30-mile radius of the Greenville, Miss.,

AFB radio beacon. The Federal Aviation Agency is considering modifying the Greenville control area extension.

The Department of the Air Force has informed the Federal Aviation Agency that effective Dec. 31, 1960, there will no longer be a requirement for air traffic control facilities for Greenville AFB. Accordingly, the present control area extension would no longer be required for Greenville AFB. However, there would be a requirement for a control area extension to provide protection for aircraft operating under IFR conditions when arriving and departing the Greenville Municipal Airport. Therefore, it is proposed to redesignate the Greenville control area extension within 8 miles east and 5 miles west of the 006° and 186° True bearings from the Greenville Municipal Airport (latitude 33°23'10" N, longitude 91°00'00" W.) extending from the south boundary of VOR Federal airway No. 278 to 17 miles south of the Greenville Municipal Airport.

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 Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. 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 Field 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 Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C. on October 26, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-10203; Filed, Oct. 31, 1960;
8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 55251]

NATIONAL MARINE SERVICE INC.

Registration of House Flag and Funnel Mark

OCTOBER 26, 1960.

The Commissioner of Customs, by virtue of the authority vested in him and in accordance with § 3.81(a), Customs Regulations (19 CFR 3.81(a)), has registered the house flag and funnel mark of the National Marine Service Incorporated as described below:

(a) *House flag.* The house flag is rectangular in shape. Superimposed and centered on a white field both vertically and horizontally is a red disc in which is centered a representation of a white beaver. The proportionate dimensions are: Hoist, 1.0; fly, 1.50; diameter of disc, 0.835; distance from top of circle to top of flag, 0.0835; distance from bottom of circle to bottom of flag 0.0835.

(b) *Funnel mark.* The funnel mark is to appear on a white funnel. Around the top of the funnel is a black band. Below this band is a red disc in which is centered a representation of a white beaver. The proportionate dimensions are: Diameter of funnel, 1.0; height of funnel, 1.45; width of black band around top of funnel, 0.15; top of disc to top of funnel, 0.28; diameter of disc, 0.30; bottom of disc to bottom of funnel, 0.87.

Colored drawings of the house flag and funnel marks described above are on file with the Federal Register Office, National Archives and Records Service.

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

[F.R. Doc. 60-10228; Filed, Oct. 31, 1960; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 3496]

GREENSBORO-HIGH POINT AIRPORT AUTHORITY

Notice of Prehearing Conference

In the matter of the petition of Greensboro-High Point Airport Authority for amendment of the certificates of public convenience and necessity of Capital Airlines, Inc., and Eastern Air Lines, Inc., so as to authorize service to Greensboro-High Point and Winston-Salem, North Carolina, through a single airport, Docket 3496.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on November 22, 1960, at 10:00 a.m., e.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ferdinand D. Moran.

Dated at Washington, D.C., October 26, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-10229; Filed, Oct. 31, 1960; 8:48 a.m.]

[Docket 10036]

NORTH CENTRAL AIRLINES, INC., RE-NEWAL OF TEMPORARY INTER-MEDIATE 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 proceeding is assigned to be heard on November 10, 1960, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., October 27, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-10230; Filed, Oct. 31, 1960; 8:48 a.m.]

[Docket 11826]

QANTAS EMPIRE AIRWAYS LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be heard on November 7, 1960, at 10:00 a.m., e.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., October 26, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-10231; Filed, Oct. 31, 1960; 8:48 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

CERTAIN DESIGNATED OFFICIALS

Delegation of Authority With Respect to Buy American Act

The Director, Division of General Services, the Director, Property Management Branch, the Executive Officer, Division of General Services, Office of the Administrator, and each HHFA Regional Administrator is hereby authorized within his jurisdiction to determine the nonapplicability of the Buy American Act of March 3, 1933, as amended, 41 U.S.C. 10a-10d, and to make determina-

tions as to exceptions to the Act as follows:

1. *Nonapplicability.* To determine that particular articles, materials, or supplies of the class or kind to be acquired for public use or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

2. *Exceptions.* To determine under the Act and Executive Order 10582, dated December 17, 1954, 19 F.R. 8723, as a condition precedent to the purchase of materials of foreign origin for public use, that the price of like materials of domestic origin is unreasonable.

This delegation supercedes the delegation effective January 14, 1959.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 13th day of October 1960.

[SEAL] NORMAN P. MASON,
Housing and Home Finance Administrator.

[F.R. Doc. 60-10213; Filed, Oct. 31, 1960; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904) and the statement of policy thereunder in 9 CFR 181.1 (25 F.R. 5863) the following table lists the establishments operated under Federal inspection under the Meat Inspection Act (21 U.S.C. 71 et seq.) which were officially reported on October 1, 1960, as humanely slaughtering and handling on that date the species of livestock respectively designated for such establishments in the table. Establishments reported after October 1, as using humane methods on October 1, or a later date in October will be listed in a supplemental list. Previously published lists represented establishments reported in September or October 1960 as humanely slaughtering and handling the designated species of livestock on September 1 or some later date in September 1960 (25 F.R. 9736 and 9981). The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods:

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Seitz Packing Co., Inc.	756A	(*)					
Philadelphia Dressed Beef Co.	758						
Sheridan Meat Co., Inc.	768	(*)		(*)		(*)	
Earl C. Gibbs, Inc.	770						
Cadwell Martin Meat Co.	773						
Atlas Packing Co.	775						
The Cudahy Packing Co.	779		(*)			(*)	
Bryan Brothers Packing Co.	783		(*)				
Diamond Meat Co., Inc.	785		(*)				
Granite State Packing Co.	785		(*)				
John Pollak Packing Co.	788		(*)	(*)	(*)		
Baums Meat Packing	792						
Max Bauer Meat Packer	800		(*)				
Acees Meat Co., Inc.	809						
McFarland Inc.	811		(*)	(*)		(*)	
Rochester Independent Packer, Inc.	817						
Henry Meyers Sons, Inc.	822		(*)				
Penford Packing Co.	827		(*)				
Bristol Packing Co.	828		(*)				
Norman Peters Packing Co.	834						
John Morrell and Co.	836						
Nat Buring Packing Co of Ark, Inc.	837B					(*)	
Frederick County Products, Inc.	838		(*)	(*)		(*)	
Herman Kempers Sons	839		(*)				
Reelfoot Packing Co.	840					(*)	
G. Bartusch Packing Co.	843						
N. J. Garden State Provision Co., Inc.	851		(*)				
Sioux City Dressed Beef, Inc.	857						
Glaser Dressed Beef Co.	857G						
Jordan Meat Co.	858		(*)	(*)		(*)	
Sam McDaniel and Sons, Inc.	859						
Sierra Meat Co.	862		(*)	(*)			
The J. H. Rodman Graff Corp.	863		(*)				
Pahler Packing Corp.	880						
Vermont Dressed Beef Co., Inc.	883						
Walden Packing Co., Inc.	886						
William Davies Co., Inc.	888A		(*)			(*)	
O'Neill Packing Co.	889						
Sambol Packing Co.	892						
Tobin Packing Co., Inc.	893					(*)	
Vernon Calhoun Packing Co.	897		(*)				
Meats, Inc.	899		(*)				
Sigman Meat Co., Inc.	901		(*)				
Hansen Packing Corp.	901A						
Hoosier Veterinary Laboratories, Inc.	912					(*)	
National Meat Packers, Inc.	917		(*)				
Valleydale Packers, Inc., of Bristol	922		(*)			(*)	
Wisconsin Packing Co.	924						
Kerber Packing Co.	929					(*)	
Tarpoff Packing Co.	931						
McKenney Meat Co.	932		(*)				
E. B. Manning and Son	934						
Volz Packing Co.	938						
Cappellino Abattoir, Inc.	939						
Gentner Packing Co., Inc.	941						
M. Brizer & Co.	948						
Joe Doctorman and Son Packing Co., Inc.	949		(*)	(*)			(*)
The Quaker Oats Co.	952E						
Armour and Co.	956					(*)	
Greater Omaha Packing Co., Inc.	960						
Virginia Packing Co., Inc.	963		(*)	(*)		(*)	
T. L. Lay Packing Co.	967						
Greeley Capitol Packing Co.	969						
Hawaii Meat Co., Ltd.	970		(*)	(*)			
Perlin Packing Co., Inc.	974		(*)	(*)	(*)		
National Food Stores, Inc.	981						
Eagle Packing Co.	987						
The Klarer Co.	995		(*)				
The Klarer Co.	995A						
The Klarer Co.	995C					(*)	
Clover Packing Co., Inc.	1005		(*)				
Food Fair Stores, Inc.	1016		(*)	(*)			
Armour and Co.	1085		(*)				
Browns Packing House	1154					(*)	
Landy Packing Co.	1171						
The Harris Packing Co.	1175					(*)	
A. F. Moyer and Sons, Inc.	1311		(*)				
McCabe Packing Plant	1312		(*)	(*)			
Samuels and Co., Inc.	1313						
Nebraska Iowa Dressed Beef Co.	1318		(*)				
Stark Wetzel Co.	44A					(*)	

Done at Washington, D.C., this 27th day of October 1960.

R. K. SOMERS,
Acting Director, Meat Inspection Division,
Agricultural Research Service.

[F.R. Doc. 60-10237; Filed, Oct. 31, 1960; 8:50 a.m.]

DISEASE PRODUCING ORGANISMS OF GENUS SALMONELLA

Notice of Review by Animal Disease Eradiction Division

Diseases caused by organisms of the genus Salmonella have the potential of causing widespread losses in livestock and poultry. There is reason to believe that these and other related disease pro-

ducing organisms may be more often spread in normal channels of interstate commerce than is generally recognized.

Resolutions received by the Agricultural Research Service from the North Central States Poultry Disease Conference; the Committee on Salmonellosis and Related Enteric Diseases of the National Plans Conference; and the American Association of Avian Pathologists call for review of the problems associ-

ated with the existence and spread of such organisms.

Therefore, the Director of the Animal Disease Eradication Division is designating a task force of selected personnel of the Division to make a review and determine the extent and nature of problems associated with such disease producing organisms in relation to the health of livestock and poultry. If the study reveals that action is necessary with respect to this matter, the task force will formulate proposals that will be useful to the Government agencies and the poultry and livestock industry in the prevention of the dissemination of the contagion of such diseases.

Any person who wishes to submit written data, views, or arguments concerning this matter may do so by filing them with the Director, Animal Disease Eradication Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., within 60 days after publication of this notice in the FEDERAL REGISTER.

(Secs. 3, 4, 5 and 7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1 and 3, 33 Stat. 1264, 1265, as amended; 21 U.S.C. 111-114, 117, 120, 123, 125)

Done at Washington, D.C., this 26th day of October 1960.

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

[F.R. Doc. 60-10239; Filed, Oct. 31, 1960; 8:50 a.m.]

**Office of the Secretary
GENERAL COUNSEL ET AL.**

Delegation of Authority To Correct Mistakes in Bids

Delegation of authority under the Federal Procurement Regulations and Comptroller General's decision B-125189 of October 3, 1955, to correct mistakes in bids.

The General Counsel, the Assistant General Counsel for Agricultural Credit, Conservation and Staff Legal Services, the Assistant for Staff Legal Services, or persons acting in their stead, are authorized, without power of redelegation, (a) to make the determinations under §§ 1-2.406-3 and 1-2.406-4, 41 CFR, relating to the correction of mistakes in bids disclosed before and after award of procurement contracts and (b) determinations in the various types of bidders' mistake cases set forth in decision of the Comptroller General B-125189, dated October 3, 1955.

This delegation supersedes the delegation of authority contained in Secretary's Memorandum No. 1387, dated October 14, 1955.

Done at Washington, D.C., this 26th day of October 1960.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 60-10218; Filed, Oct. 31, 1960; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12925-12927; FCC 60M-1828]

EAST TEXAS TRANSMISSION CO.

Order Scheduling Hearing

In re applications of East Texas Transmission Company, Tyler, Texas, for construction permit for new fixed video radio station. Frequencies: 5937.5, 6037.5, 6137.5 and 6237.5 Mc. Location: Hwy. No. 429, 0.6 miles SW of College Mound, Texas, Docket No. 12925, File No. 2007-C1-P-58; for construction permit for new fixed video radio station. Frequencies: 5987.5, 6087.5, 6187.5 and 6287.5 Mc. Location 1.3 miles NW of Colfax, Texas, Docket No. 12926, File No. 2008-C1-P-58; for construction permit for new fixed video radio station. Frequencies: 5937.5, 6037.5, 6137.5 and 6237.5 Mc. Location: North Glenwood Blvd. and West Cloud St., Tyler, Texas, Docket No. 12927, File No. 2009-C1-P-58.

Pursuant to rulings made on the record at the prehearing conference held on this date,

It is ordered, This 25th day of October 1960, that the following dates for procedural steps shall govern in this proceeding:

Exchange of protestant's and applicant's exhibits: November 22, 1960.

Notification of witnesses desired for cross-examination: November 29, 1960.

Commencement of hearing: December 12, 1960.

Released: October 26, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10243; Filed, Oct. 31, 1960; 8:50 a.m.]

[Docket Nos. 13491-13498; FCC 60M-1833]

BOOTH BROADCASTING CO. (WIOU) ET AL.

Order Continuing Hearing

In re applications of Booth Broadcasting Company (WIOU), Kokomo, Indiana, Docket No. 13491, File No. BP-12036; Clinton Broadcasting Corporation (KROS), Clinton, Iowa, Docket No. 13492, File No. BP-12665; Truth Radio Corporation (WTRC), Elkhart, Indiana, Docket No. 13493, File No. BP-12842; Illinois Broadcasting Company (WSOY), Decatur, Illinois, Docket No. 13494, File No. BP-12916; WJOL, Inc. (WJOL), Joliet, Illinois, Docket No. 13495, File No. BP-13054; Tri-City Radio Corporation (WLBC), Muncie, Indiana, Docket No. 13496, File No. BP-13102; Radio Milwaukee, Inc. (WRIT), Milwaukee, Wisconsin, Docket No. 13497, File No. BP-13158; Stevens-Wismer Broadcasting, Inc. (WLAV), Grand Rapids, Michigan, Docket No. 13498, File No. BMP-8430; for construction permits.

On the basis of agreements reached on the record during a prehearing conference held October 26, 1960: *It is ordered*,

No. 213-6

This 26th day of October 1960, that the hearing in the above-entitled proceeding now scheduled to commence November 8, 1960, at 10:00 a.m. at the Commission's offices, Washington, D.C., is hereby rescheduled to commence on Thursday, November 10, 1960, at the same time and place.

Released: October 27, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10240; Filed, Oct. 31, 1960; 8:50 a.m.]

[Docket Nos. 13771-13774; FCC 60M-1831]

COLUMBIA RIVER BROADCASTERS, INC., ET AL.

Order Continuing Hearing

In re applications of Columbia River Broadcasters, Inc., Mount Vernon, Washington, Docket No. 13771, File No. BP-11933; Henry Perozzo (KAYE), Puyallup, Washington, Docket No. 13772, File No. BP-12844; KBKW, Inc. (KBKW), Aberdeen, Washington, Docket No. 13773, File No. BP-13406; Carl-Dek, Inc., Kirkland, Washington, Docket No. 13774, File No. BP-13491; for construction permits.

Because of other urgent commitments of the Hearing Examiner, *It is ordered*, This 25th day of October 1960, that the hearing in Docket No. 13771 scheduled for November 22, 1960, in the above-entitled matter is continued to 10:00 a.m., December 15, 1960.

Released: October 26, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10241; Filed, Oct. 31, 1960; 8:50 a.m.]

[Docket No. 13813; FCC 60M-1837]

DUNLEA BROADCASTING INDUSTRIES, INC. (WMFD)

Order Continuing Hearing

In re application of Dunlea Broadcasting Industries, Inc. (WMFD), Wilmington, North Carolina, Docket No. 13813; File No. BP-13038; for construction permit.

Pursuant to the agreement of the parties at the prehearing conference held October 26, 1960, *It is ordered*, This 26th day of October 1960 that the hearing in the above-entitled matter heretofore scheduled for November 14, 1960, is continued to December 13, 1960, at 10:00 a.m., in the offices of the Commission, Washington, D.C.

Released: October 27, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10242; Filed, Oct. 31, 1960; 8:50 a.m.]

[Docket Nos. 12922-12924; FCC 60M-1827]

MESA MICROWAVE, INC.

Order Continuing Hearing Conference

In re applications of Mesa Microwave, Inc., Oklahoma City, Oklahoma, for construction permit for new fixed video radio station. Frequencies: 6012.5, 6112.5 and 6212.5 Mc. Location: 10 miles NW of Lake City, Florida, Docket No. 12922, File No. 2681-C1-P-58; for construction permit for new fixed video radio station. Frequencies: 6067.5, 6167.5 and 6267.5 Mc. Location: 6 miles east of Madison, Florida, Docket No. 12923, File No. 2682-C1-P-58; for construction permit for new fixed video radio station. Frequencies: 6012.5, 6112.5 and 6212.5 Mc. Location: 2.5 miles south of Monticello, Florida, Docket No. 12924, File No. 2683-C1-P-58.

The Hearing Examiner having under consideration his order released October 19, 1960 (FCC 60M-1789), providing for a prehearing conference in this proceeding at 2:00 p.m., October 27, 1960; and

It appearing that the applicant is in the process of preparing a petition seeking dismissal of its application which, if granted, will render unnecessary any hearing; and

It further appearing that counsel for all other parties have consented to an indefinite continuance of the prehearing conference, and that such continuance will conduce to the orderly dispatch of the Commission's business;

It is ordered, This 25th day of October 1960, that the prehearing conference now scheduled to be commenced at 2:00 p.m., October 27, 1960, is continued indefinitely.

Released: October 26, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10244; Filed, Oct. 31, 1960; 8:50 a.m.]

[Docket No. 13744; FCC 60M-1830]

MOUNTAIN EMPIRE RADIO CO.

Order Scheduling Hearing

In re application of James B. Childress and James E. Reed, d/b as Mountain Empire Radio Company, Clinton, Tennessee, Docket No. 13744, File No. BP-12925; for construction permit.

On the oral request of counsel for the applicant and without objection by counsel for the other parties, *It is ordered*, This 25th day of October 1960, that the hearing now scheduled for October 26 is rescheduled to Wednesday, November 2, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

Released: October 26, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10245; Filed, Oct. 31, 1960; 8:51 a.m.]

[Docket No. 13779; FCC 60M-1835]

SOUTHERN TRANSMISSION CORP.

Order Continuing Hearing Conference

In re applications of Southern Transmission Corporation, Docket No. 13779; for construction permit for new fixed video station at Palm Beach Gardens, Florida (KJE50), File No. 3060-C1-P-60; for construction permit for new fixed radio station at Stuart, Florida (KJE51), File No. 3061-C1-P-60; for construction permit for new fixed radio station at Fort Pierce Florida (KJE52), File No. 3062-C1-P-60.

The Hearing Examiner having under consideration his order released October 11, 1960, scheduling a prehearing conference herein for October 28, 1960, at 10:00 a.m.; and

It appearing that counsel for the protestant informally (orally) advised the Hearing Examiner that there was being prepared a joint motion (protestant-applicant) seeking dismissal of the subject protest; and

It further appearing, that in the event of a grant of said motion it would become unnecessary to hold a hearing herein; and

It further appearing, that postponement of the prehearing conference presently scheduled would be conducive to the orderly dispatch of the Commission's business;

Accordingly, it is ordered, This 26th day of October 1960, that the prehearing conference herein now scheduled to commence at 10:00 a.m., October 28, 1960, is continued indefinitely.

Released: October 27, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10246; Filed, Oct. 31, 1960;
8:51 a.m.]

[Docket Nos. 13687, 13688; FCC 60M-1834]

VALLEY TELECASTING CO. AND CENTRAL WISCONSIN TELEVISION, INC.

Order Scheduling Prehearing Conference

In re applications of Valley Telecasting Company, Wausau, Wisconsin, Docket No. 13687, File No. BPCT-2709; Central Wisconsin Television, Inc., Wausau, Wisconsin, Docket No. 13688, File No. BPCT-2738; for construction permits for new television broadcast stations (Channel 9).

The Hearing Examiner having under consideration a joint motion filed October 24, 1960, by the applicants, requesting a prehearing conference in this proceeding and suggesting that it be scheduled on November 10, 1960; and

It appearing that counsel for the Broadcast Bureau has consented to the immediate consideration and grant of the motion and that a grant thereof will conduce to the orderly dispatch of the Commission's business;

It is ordered, This 26th day of October 1960, that the aforesaid joint motion is granted, and that a prehearing conference in this proceeding shall be held at 10:00 a.m., November 10, 1960.

Released: October 27, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10247; Filed, Oct. 31, 1960;
8:51 a.m.]

[Docket 6517; FCC 60M-1821]

WESTERN UNION TELEGRAPH CO. AND POSTAL TELEGRAPH, INC.

Order Scheduling Hearing

In the matter of the application for merger of the Western Union Telegraph Company and Postal Telegraph, Inc., Docket No. 6517.

It is ordered, This 25th day of October 1960, that Charles J. Frederiek will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 21, 1960, in Washington, D.C.

Released: October 25, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-10248; Filed, Oct. 31, 1960;
8:51 a.m.]

FEDERAL POWER COMMISSION

FIRST AMENDMENT TO STATEMENT OF GENERAL POLICY NO. 61-1

OCTOBER 25, 1960.

In our Statement of General Policy No. 61-1, issued September 28, 1960, we did not announce a price level for initial sales from Southern Louisiana and Mississippi for the reason therein given. Subsequent to the issuance of our statement, we have found that the great number of proposed sales from this area involved in certificate proceedings renders it imperative that a price level be announced. The large amounts of gas vitally needed from this area for widespread interstate markets cannot be given consideration and certification consistent with the sales from other areas under our new policy unless all parties including our staff, producers and purchasers are aware of exactly what initial price level we feel is presently appropriate.

We will, therefore, by this announcement amend the appendix to our Statement of General Policy, 61-1, to include a price level of 20.96 cents per Mcf at 14.65 psia (21.5 cents per Mcf at 15.025 psia) for initial sales from Southern Louisiana and Mississippi. This level represents our judgment as to a proper price at this time, based upon current conditions and a full and careful consideration of all of the factors set forth in our original statement. It is intended to operate for sales not previously con-

sidered by us in connection with permanent certification. Previously certificated sales from this area, at the same or other price levels, were the result of our judgment of the situations at the time those cases came before us. The present announcement, of course, is neither a repudiation of our previous decisions nor a prejudgment of the cases presently being reconsidered separately by us upon remand from the Supreme Court.

By the Commission (Chairman Kuykendall dissenting).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10204; Filed, Oct. 31, 1960;
8:45 a.m.]

[Docket No. G-13654 etc.]

GS OIL AND GAS CO. ET AL.

Notice of Applications and Date of Hearing

OCTOBER 20, 1960.

GS Oil & Gas Company, Docket Nos. G-13654, G-16545; George Jackson, Docket No. G-14363; Arkansas Fuel Oil Corporation, Docket No. G-18210, CI60-463; Texaco Seaboard, Inc., Docket No. G-18657; Ayers Oil and Gas Company, Docket No. G-19229; Markle Oil & Gas Company, Docket No. G-19385; Monongahela Oil & Gas Company, Docket No. G-19422; George L. Blohm, Clark Sherwood and Thomas J. Holmes (Formerly Sherwood & Blohm and Thomas J. Holmes), Docket No. G-20033; Pan American Petroleum Corporation, Docket No. G-20099; Rad Corporation, et al., Docket No. G-20160; B. E. Talkington, et al., Docket No. G-20164; The Cummins Oil Company, Docket No. G-20221; Amerada Petroleum Corporation, Docket No. G-20246; William Herbert Hunt Trust Estate, Docket No. G-20258; Lafayette Oil Company, Docket No. CI61-205; T. J. Ahern, Operator, et al., Docket No. CI60-247; Houston Natural Gas Production Company, et al., Docket No. CI60-308; Columbia Carbon Company, Docket No. CI60-596; W. H. Mosser, Docket No. CI60-673; Lewis Sandri, et al., Docket No. CI61-58.

Take notice that each of the above applicants has filed an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon service, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, and any amendments thereto, which are on file with the Commission and open to public inspection.

GS Oil & Gas Company (GS) filed the application in Docket No. G-13654 for a certificate of public convenience and necessity authorizing the sale of natural gas from the Ada M. Elliott, et al., Lease, Murphy District, Ritchie County, West Virginia to Hope Natural Gas Company. The application is now pending final disposition. In view of the application filed by GS in Docket No. G-16545 to abandon the above described service, the application in Docket No. G-13654 is subject

to dismissal as being moot. GS was granted temporary authorization to render such service by letter dated November 26, 1957.

George Jackson filed the original application in Docket No. G-14363 for a certificate authorizing the sale of natural gas from the Skin Creek District, Lewis County, West Virginia to Equitable Gas Company. On April 4, 1960, applicant amended the application in Docket No. G-14363 seeking permission and approval to abandon said service.

Arkansas Fuel Oil Corporation (Arkansas) filed the application in Docket No. G-18210 for a certificate authorizing the sale of natural gas from the Cottonwood Creek Field, Dewitt County, Texas to Texas Eastern Transmission Corporation. Said application is now pending final disposition. Subsequent to the filing in Docket No. G-18210, Arkansas filed the application in Docket No. CI60-463 for permission and approval to abandon said service. Arkansas was granted temporary authorization by letter dated April 29, 1959. The application in Docket No. G-18210 is subject to dismissal.

The remaining applicants herein, seek permission and approval to abandon service as indicated below:

Each Applicant herein states that the volume of gas now available for delivery under the related gas sales contract has been depleted or has declined to a point where it is no longer economically feasible to continue the heretofore authorized sale.

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 30, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 15, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10205; Filed, Oct. 31, 1960; 8:45 a.m.]

[Docket No. CI60-333 etc.]

STANDARD OIL COMPANY OF CALIFORNIA ET AL.

Notice of Postponement of Hearing

OCTOBER 21, 1960.

Standard Oil Company of California, Docket No. CI60-333; Dorsey Buttram, Docket No. CI60-442; George B. Caulkins, Jr., Docket No. CI60-560; Gulf Oil Corporation, Docket No. CI60-636.

Upon consideration of the motion filed October 17, 1960, by Counsel for Standard Oil Company of California for postponement of the hearing now scheduled for November 2, 1960 in the above-designated matters;

The hearing now scheduled for November 2, 1960 is hereby postponed to January 10, 1961, 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. 60-10208; Filed, Oct. 31, 1960; 8:45 a.m.]

[Docket No. G-14292 etc.]

HUMBLE OIL AND REFINING CO. ET AL.

Notice of Applications and Date of Hearing

OCTOBER 24, 1960.

Humble Oil & Refining Company, formerly The Carter Oil Company, Docket No. G-14292; Union Oil Company of California, Docket No. G-14327; Tidewater Oil Company, Operator, et al., Docket No. G-15103; BEM Drilling Company, Operator, et al., Docket No. G-17847; Skelly Oil Company, Docket No. G-17855; Gulf Oil Corporation, Docket No. G-17857; Kenwood Oil Company, et al., Docket No. G-17863; Skelly Oil Company, Docket No. G-17864; Harkins & Company, Operator, et al., Docket No. G-17867; H. L. Hunt, et al., Docket No. G-17869; Skelly Oil Company, Operator, et al., Docket No. G-17908; Edwin L. Cox, Operator, et al., Docket No. G-17910; Willard Shock, et al., Docket No. G-17912; Jocelyn-Varn Oil Company, Operator, et al., Docket No. G-17915; Kirby Production Company, Docket No. G-17943; Williams Oil & Gas Company, et al., Docket No. G-17944; W. B. Cleary, Inc., Operator, et al., Docket No. G-17946; Cities Service Oil Company, Operator, et al., Docket No. G-18014; Union Producing Company, Docket No. G-18193; Champlin Oil & Refining Company, Docket No. G-18209; Standard Oil Company of Texas, Docket No. G-18241; Morris Oil & Gas Company, Inc., Docket No. G-18246; Paul J. Ottis, M.D., et al., Docket No. G-18317; Amerada Petroleum Corporation, Docket No. G-18647; Saturn Drilling Company, Operator, et al., Docket No. G-18908; Rimrock Tideland, Inc., et al., Docket No. G-19138; L. D. Crumly, Jr., Docket No. G-19188; Duty Oil Company, Docket No. G-19197; Cheyenne Oil Corporation, Operator, et al., Docket No. G-19213; Kingwood Oil Company, Docket No. G-19221; Stekoll Petroleum Corporation, Docket No. G-19233; H. Stewart Bennett, Docket No. G-19234; W. B. Cleary, Inc., Operator, et al., Docket No. G-19242; Pioneer Oil & Gas Company, Inc., Operator, et al., Docket No. G-19243; Anadarko Production Company, Docket No. G-19248;

Andrew A. Bradford, et al., Docket No. G-19293; Jal Oil Company, Inc., Operator, et al., Docket No. G-19304; Petroleum, Inc., Operator, et al., Docket No. G-19330; Anadarko Production Company, Docket No. G-19335; Anadarko Production Company, Docket No. G-19336; Anadarko Production Company, Docket No. G-19339; Jal Oil Company, Inc., Operator, et al., Docket No. G-19353; Jal Oil Company, Inc., Operator, Docket No. G-19354; Jal Oil Company, Inc., Operator, et al., Docket No. G-19355; Jal Oil Company, Inc., Operator, et al., Docket No. G-19375; Jal Oil Company, Inc., Docket No. G-19403; Jal Oil Company, Inc., Docket No. G-19404; Jal Oil Company, Inc., Docket No. G-19405; Jal Oil Company, Inc., Operator, et al., Docket No. G-19406; Robert J. Moffatt, Docket No. G-19410; Marvin

Docket Nos.	Field and locations	Purchaser	Docket in which sale was authorized
G-18657	McCrosby Area, Matagorda County, Tex.	Tennessee Gas Transmission Co.	G-9240
G-19229	Murphy District, Ritchie County, W. Va.	Hope Natural Gas Co.	G-5466
G-19385	Clay District, Ritchie County, W. Va.	do	G-5513
G-19422	Van Voorhis Field, W. Va.	do	G-8365
G-20033	South Lissie Field, Wharton County, Tex.	Tennessee Gas Transmission Co.	G-9163
G-20099	West Cosden Field, Bee County, Tex.	Texas Eastern Transmission Corp.	G-5662
G-20160	Central District, Doddridge County, W. Va.	Hope Natural Gas Co.	G-9624
G-20164	Washington District, Calhoun County, W. Va.	do	G-9776
G-20221	Murphy District, Ritchie County, W. Va.	do	G-12519
G-20246	Bloomington Field, Victoria County, Tex.	United Gas Pipe Line Co.	G-4781
G-20258	Guedin Field, San Patricio County, Tex.	Texas Eastern Transmission Corp.	G-12528
CI61-205	Lafayette District, Pleasants County, W. Va.	Hope Natural Gas Co.	G-5621
CI60-247	Fairbanks Field, Harris County, Tex.	Peoples Gulf Coast Natural Gas Pipe Line Co.	G-4510
CI60-308	Hagist Ranch Field, Duval County, Tex.	Tennessee Gas Transmission Co.	G-8512
CI60-596	Acreage in Lewis County, W. Va.	Hope Natural Gas Co.	G-7076
CI60-673	Union District, Ritchie County, W. Va.	do	G-10846
CI61-58	Acreage in Elk County, Pa.	New York State Natural Gas Corp.	G-4520

NOTICES

Kelley, et al., d.b.a. Kiowa Gas Company, Docket No. G-19411; Storm, Hagy and Herrmann, Docket No. G-19413; Humble Oil & Refining Company, Operator, et al., Docket No. G-19416; San Juan Drilling Company, Docket No. G-19423; Harvey L. Starr, Docket No. G-19427; John R. Royall, Docket No. G-19438; Billy Bridwell, Docket No. G-19442; Union Producing Company, Docket No. G-19450; C. I. West Virginia Corporation, Docket No. G-19454; W. M. Bevely, et al., Docket No. G-19458; Don McRae, et al., d.b.a., Dow Oil & Gas Company, Docket No. G-19497; Kingwood Oil Company, Operator, et al., Docket No. G-19798; Ralph Lowe, Operator, et al., Docket No. G-19970; Durl Fluharty, et al., d.b.a., Laurel Fork Oil & Gas Company, et al., Docket No. G-20043; Woods Petroleum Corporation, Docket No. CI60-13; Merchants Petroleum Company, Docket No. CI60-160; Westates Petroleum Company, Operator, et al., Docket No. CI60-352; Williams & Wilfong Wells, Docket No. CI60-354; Cline Well No. 1, West Union Drilling Company, Inc., Agent, Docket No. CI60-401; George Parker and Charles L. McCune, Docket No. CI60-420; Foley Well No. 1, Oil & Gas Company, Docket No. CI60-449; Pierce No. 1, Paul B. Davis, Agent, Docket No. CI60-504; B&F Development Company, Docket No. CI60-515; Scott Lease, Hugh K. Spencer, Agent, Docket No. CI60-516; McCall Drilling Company, Inc., Docket No. CI60-519; Wimar Production, Docket No. CI60-537; Osbourn Oil & Gas Company, Docket No. CI60-571; Spruce Creek Development Company, Docket No. CI60-574; Wellington Britton Oil & Gas Company, Docket No. CI60-595; Stonestreet Lands Company, Docket No. CI60-603; H & H Oil Company, Docket No. CI60-615; Stevens Well No. 1, Carl D. Perkins, et al., Agents, Docket No. CI60-616; Neely No. 1, George R. Neely, Agent, Docket No. CI60-627; Harvey L. Starr, Docket No. CI60-633; Heflin No. 1, West Union Drilling Company, Inc., Agent, Docket No. CI60-654; Dotson No. 1, D. D. Roberts and C. C. Yeater, Agents, Docket No. CI60-674; Frey No. 1, Joseph J. Graham, Agent, Docket No. CI60-687; Doddridge Oil and Gas Company, Docket No. CI60-752; G. Frank Ash No. 1, Hugh K. Spencer, Agent, Docket No. CI60-753; Hazel Dilly, et al., Docket CI60-754; Phillips Petroleum Company, Docket No. CI60-776; N. L. Altier, et al., Docket No. CI61-3; Northern Natural Gas Producing Company, Docket No. CI61-8.

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

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

Docket Nos.	Field and location	Purchaser	Price per Mcf
G-14292	Greenough Leslie Pool, Beaver County, Okla. and Meade County, Kans.	Panhandle Eastern Pipe Line Co.	16.0 cents at 14.65 psia.
G-14327	Acreage in Ochiltree, Hansford, and Roberts Counties, Tex.	Northern Natural Gas Co.	16.5 cents at 14.65 psia.
G-15103	Midland, Aecadia Parish, La.	United Gas Pipe Line Co.	18.5 cents at 15.025 psia.
G-17847	Spraberry Trend, Midland County, Tex.	El Paso Natural Gas Co.	11.0 cents at 14.65 psia.
G-17855	Eureka, Grant County, Okla.	Cities Service Gas Co.	12.0 cents at 14.65 psia.
G-17857	N. Dubberly, Webster Parish, La.	Texas Gas Transmission Corp.	18.25 cents at 15.025 psia.
G-17863	Katie, Garvin County, Okla.	Lone Star Gas Co.	8.0 cents at 14.65 psia.
G-17864	Hugoton, Texas County, Okla. and Mohler, Meade County, Kans.	Panhandle Eastern Pipe Line Co.	16.0 cents at 14.65 psia.
G-17867	S. Weesatche and Manahvilla, Goliad County, Tex.	United Gas Pipe Line Co.	7.596 cents at 14.65 psia.
G-17869	Sherman, Grayson County, Tex.	Lone Star Gas Co.	14.49 cents at 14.65 psia.
G-17908	Randon, Fort Bend County, Tex.	Tennessee Gas Transmission Co.	13.49751 cents at 14.65 psia.
G-17910	Acreage in Stephens County, Okla.	Lone Star Gas Co.	11.0 cents at 14.65 psia.
G-17912	Sherman District, Calhoun County, W. Va.	Hope Natural Gas Co.	20.0 cents at 15.325 psia.
G-17915	Hunter, Garfield County, Okla.	Consolidated Gas Utilities Corp.	11.0 cents at 14.65 psia.
G-17943	Camrick S. E., Beaver County, Okla.	Natural Gas Pipe Line Co. of America.	16.4 cents at 14.65 psia.
G-17944	Grant District, Doddridge County, W. Va.	Hope Natural Gas Co.	20.0 cents at 15.325 psia.
G-17946	Acreage in Stephens County, Okla.	Lone Star Gas Co.	11.0 cents at 14.65 psia.
G-18014	Old Waverly, San Jacinto County, Tex.	Texas Eastern Transmission Corp.	14.6 cents at 14.65 psia.
G-18193	Lisbon, Claiborne Parish, La.	Texas Gas Transmission Corp.	18.25 cents at 15.025 psia.
G-18209	Nena Lucia, Nolan County, Tex.	West Lake Natural Gasoline Co.	5.0 cents at 14.65 psia.
G-18241	Nena Lucia, Nolan, and Mitchell Counties, Tex.	West Lake Natural Gasoline Co. and Renown Corp.	5.5 cents at 14.65 psia.
G-18246	Sherman District, Calhoun County, W. Va.	Hope Natural Gas Co.	20.0 cents at 15.325 psia.
G-18317	Greenwood, Morton County, Kans.	Panhandle Eastern Pipe Line Co.	Predecessor's authorized rate.
G-18647	N. E. Greenburg, Kiowa County, Kans.	Kiowa Gas Co.	7.0 cents at 14.65 psia.
G-18908	Lehn-Apeo (Montoya), Pecos County, Tex.	El Paso Natural Gas Co.	10.5 cents at 14.65 psia.
G-19138	South Pass (Block 30), Plaquemines Parish, La.	Tennessee Gas Transmission Co.	19.5 cents at 15.025 psia.
G-19188	Pecos Valley, Pecos County, Tex.	El Paso Natural Gas Co.	10.5 cents at 14.65 psia.
G-19197	Centerville District, Tyler County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
G-19213	Acreage in St. Landry Parish, La.	United Gas Pipe Line Co.	18.75 cents at 15.025 psia.
G-19221	Acreage in Ochiltree County, Tex.	Northern Natural Gas Co.	16.5 cents at 14.65 psia.
G-19233	Block 39, Upton County, Tex.	El Paso Natural Gas Co.	Predecessor's authorized rate.
G-19234	Acreage in San Juan County, N. Mex.	do	12.0 cents at 15.025 psia.
G-19242	Fox, Bee County, Tex.	Trunkline Gas Co.	12.25 cents at 14.65 psia.
G-19243	Maxie-Pistol Ridge, Pearl River, Forrest, and Lamar Counties, Miss.	United Gas Pipe Line Co.	20.0 cents at 15.025 psia.
G-19248	Hugoton, Finney County, Kans.	Northern Natural Gas Co.	12.0 cents at 14.65 psia.
G-19293	Acreage in Hansford County, Tex.	Panhandle Eastern Pipe Line Co.	16.0 cents at 14.65 psia.
G-19304	Langlie-Mattix and Jalmat, Lea County, N. Mex.	El Paso Natural Gas Co.	Predecessor's authorized rate.
G-19330	Acreage in Texas County, Okla.	Panhandle Eastern Pipe Line Co.	16.0 cents at 14.65 psia.
G-19335	Hugoton, Morton County, Kans.	Northern Natural Gas Co.	12.0 cents at 14.65 psia.
G-19336	Hugoton, Seward and Finney Counties, Kans.	do	12.0 cents at 14.65 psia.
G-19339	Hugoton, Morton County, Kans.	do	12.0 cents at 14.65 psia.
G-19353	South Eunice, Langlie-Mattix, and Jalmat, Lea County, N. Mex.	El Paso Natural Gas Co.	Predecessor's authorized rate.
G-19354	Langlie-Mattix and Crosby Devonian, Lea County, N. Mex.	do	Do.
G-19355	Langlie-Mattix, Lea County, N. Mex.	do	Do.
G-19375	do	do	Do.
G-19403	do	do	Do.
G-19404	Jalmat, Lea County, N. Mex.	do	Do.
G-19405	do	do	Do.
G-19406	Langlie-Mattix and Jalmat, Lea County, N. Mex.	do	Do.
G-19410	Cadeville, Ouachita Parish, La.	United Gas Pipe Line Co.	12.25 cents at 15.025 psia.
G-19411	N. E. Greenburg, Kiowa County, Kans.	Cities Service Gas Co.	12.0 cents at 14.65 psia.
G-19413	Panhandle, Hartley County, Tex.	Colorado Interstate Gas Co.	12.0 cents at 14.65 psia.
G-19416	Calcasieu Pass, Cameron Parish, La.	United Fuel Gas Co.	19.5 cents at 15.025 psia.
G-19423	Otero, Rio Arriba County, N. Mex.	El Paso Natural Gas Co.	11.0 cents at 15.025 psia.
G-19427	Court House District, Lewis County, W. Va.	Hope Natural Gas Co.	25.0 cents at 15.325 psia.
G-19438	W. Kutz, San Juan County, N. Mex.	El Paso Natural Gas Co.	12.0 cents at 15.025 psia.
G-19442	Mella "Pettus", Jim Wells County, Tex.	Natural Gas Pipeline Co. of America, formerly Texas Illinois Natural Gas Pipeline Co.	14.5 cents at 14.65 psia.
G-19450	Calhoun Area, Ouachita Parish, La.	Arkansas Louisiana Gas Co.	18.75 cents at 15.025 psia.
G-19454	Murphy District, Ritchie County, W. Va.	Hope Natural Gas Co.	25.0 cents at 14.65 psia.
G-19458	Calallen W., Nueces County, Tex.	United Gas Pipe Line Co.	13.1664 cents at 14.65 psia.
G-19497	Smithfield District, Roane County, W. Va.	Hope Natural Gas Co.	25.0 cents at 15.325 psia.
G-19798	Acreage in San Juan County, N. Mex.	El Paso Natural Gas Co.	12.0 cents at 15.025 psia.
G-19970	Jalmat, Yates, Senen Rivers, and Tansill, Lea County, N. Mex.	do	6.5 cents at 14.65 psia.
G-20043	Union District, Ritchie County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
CI60-13	Eureka, Alfalfa County, Okla.	Cities Service Gas Co.	12.0 cents at 14.65 psia.
CI60-160	Henry and Buffalo Districts, Clay County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
CI60-352	Rodessa, Marion County, Tex.	Texas Eastern Transmission Corp.	Predecessor's authorized rate.
CI60-354	Troy District, Gilmer County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
CI60-401	West Union District, Doddridge County, W. Va.	do	25.0 cents at 15.325 psia.

Docket Nos.	Field and location	Purchaser	Price per Mcf
C160-420	E. Camrick, Beaner County, Okla.	Natural Gas Pipeline Co. of America.	16.8 cents at 14.65 psia.
C160-449	West Union District, Doddridge County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
C160-504	do	do	25.0 cents at 15.325 psia.
C160-515	do	do	25.0 cents at 15.325 psia.
C160-516	do	do	25.0 cents at 15.325 psia.
C160-519	Freemans Creek District, Lewis County, W. Va.	do	25.0 cents at 15.325 psia.
C160-537	West Union District, Doddridge County, W. Va.	do	25.0 cents at 15.325 psia.
C160-571	do	do	25.0 cents at 15.325 psia.
C160-574	Union District, Ritchie County, W. Va.	do	25.0 cents at 15.325 psia.
C160-595	Murphy District, Ritchie County, W. Va.	do	25.0 cents at 15.325 psia.
C160-603	West Union District, Doddridge County, W. Va.	do	25.0 cents at 15.325 psia.
C160-615	do	do	25.0 cents at 15.325 psia.
C160-616	do	do	25.0 cents at 15.325 psia.
C160-627	do	do	25.0 cents at 15.325 psia.
C160-633	Glenville District, Gilmer County, W. Va.	do	25.0 cents at 15.325 psia.
C160-654	West Union District, Doddridge County, W. Va.	do	25.0 cents at 15.325 psia.
C160-674	do	do	25.0 cents at 15.325 psia.
C160-687	do	do	25.0 cents at 15.325 psia.
C160-752	do	do	25.0 cents at 15.325 psia.
C160-753	do	do	25.0 cents at 15.325 psia.
C160-754	do	do	25.0 cents at 15.325 psia.
C160-776	Puckett, Pecos County, Tex.	Transwestern Pipeline Co.	16.0 cents at 14.65 psia.
C161-3	West Union District, Doddridge County, W. Va.	Equitable Gas Co.	25.0 cents at 15.325 psia.
C161-8	Puckett, Pecos County, Tex.	Transwestern Pipeline Co.	16.0 cents at 14.65 psia.

[Docket Nos. G-19040, G-19041]

NORTHERN NATURAL GAS CO. AND PERMIAN BASIN PIPELINE CO.

Order Fixing Date for Oral Argument

OCTOBER 20, 1960.

Northern Natural Gas Company, Docket No. G-19040; Permian Basin Pipeline Company, Docket No. G-19041.

On June 28, 1960, the presiding examiner reported to the Commission two motions entered orally upon the record by staff counsel during the hearing in these proceedings on June 24, 1960. The first motion requested that an interim order be issued herein determining the issues of (1) rate of return and associated taxes and (2) allocation of cost between jurisdictional and non-jurisdictional business, reserving for a subsequent phase of these proceedings all other issues involved herein. The second motion requested that the intermediate decision procedure be waived in accordance with § 1.30 of the Commission's rules of practice and procedure and that the record on rate of return and associated taxes and allocation of cost be certified to the Commission for its intermediate decision on these issues.

Upon consideration of staff's motions and the objections thereto, the Commission, on August 19, 1960, issued an order in the above-entitled proceedings omitting the intermediate decision procedure for purposes of determination of the proper rate of return and allocation of cost between jurisdictional and non-jurisdictional sales of gas for Northern Natural Gas Company and Permian Basin Pipeline Company. In addition, the Commission directed the presiding examiner to certify to it the evidence of record on the issues of rate of return, associated taxes and allocation of cost between jurisdictional and non-jurisdictional sales of gas for determination of those issues under an interim order procedure.

Pursuant to the Commission's order issued August 19, 1960, the staff, Northern and Permian, and various intervenors filed main and reply briefs on these limited issues.

In view of the important issues raised in these proceedings, it would appear that oral argument should be held as hereinafter ordered on the issues of rate of return and allocation of cost between jurisdictional and non-jurisdictional sales of gas, in addition to the filing of both main and reply briefs by the various parties.

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 these proceedings as hereinafter ordered and provided.

The Commission orders:

(A) Oral argument before the Commission on the issues of rate of return and allocation of cost between jurisdictional and non-jurisdictional sales of gas for Northern and Permian shall be held on November 15, 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.

(B) Those parties to these proceedings who intend to participate in the oral argument shall notify the Secretary of the Commission on or before November 4, 1960, of such intention and the time requested for presentation of their argument.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10207; Filed, Oct. 31, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 27, 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. 36669: *Substituted service—Erie-Lackawanna for North American Van Lines, Inc.* Filed by Household Goods Carriers' Bureau, Agent (No. 28), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Cleveland, Ohio and Hornell, N.Y., on the one hand, and Jersey City, N.J., and Scranton, Pa., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 7 to Household Goods Carriers' Bureau tariff MF-I.C.C. 90.

The public convenience and necessity require that these matters 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 30, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 15, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made: *Provided, further*, If a protest, petition to intervene or notice of intervention be timely filed in any of the above dockets, the above hearing date as to that docket will be vacated and a new date for hearing will be fixed as provided in § 1.20 (b) (2) of the rules of practice and procedure.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-10206; Filed, Oct. 31, 1960; 8:45 a.m.]

FSA No. 36670: *Substituted service—NYNH&HRR for Midwest Haulers, Inc., et al.* Filed by Midwest Haulers, Inc. (No. 36), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between New Haven, Conn., and Boston, Mass., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 15 to Midwest Haulers, Inc., tariff MF-I.C.C. 22.

FSA No. 36671: *Starch or dextrine—Cedar Rapids, Iowa, to Brewton, Ala.* Filed by Western Trunk Line Committee, Agent (No. A-2148), for interested rail carriers. Rates on starch or dextrine, in carloads, as described in the application, from Cedar Rapids, Iowa to Brewton, Ala.

Grounds for relief: Private truck competition.

Tariff: Supplement 169 to Western Trunk Line Committee tariff I.C.C. A-4171.

FSA No. 36672: *Diacetone alcohol—Houston, Tex., to Chicago (Argo), Ill.* Filed by Southwestern Freight Bureau, Agent (No. B-7918), for interested rail carriers. Rates on diacetone alcohol, in

tank-car loads, from Houston, Tex., to Chicago (Argo), Ill.

Grounds for relief: Unregulated water competition.

Tariff: Supplement 190 to Southwestern Freight Bureau tariff I.C.C. 4064.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-10225; Filed, Oct. 31, 1960;
8:48 a.m.]

[Notice 402]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 27, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce

Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63187. By order of October 24, 1960, Division 4, Acting as an Appellate Division, approved the transfer to Michael V. Mirola, doing business as American Transport Company, Belleville, N.J., of Permit in No. MC 59780, issued May 23, 1956, to Harry J. McCabe, doing business as H. J. McCabe, Nutley, N.J., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, and fruits, vegetables, farm products, poultry, and sea food, in the respective seasons of their production, from, to, or between, specified points in New York and New Jersey. Bert Collins, 140 Cedar Street, New York 6, N.Y., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-10226; Filed, Oct. 31, 1960;
8:48 a.m.]



