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FEDERAL REGISTER

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FEDERAL REGISTER

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Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 627, 4th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREAS

Pursuant to § 301.80–2 of the regulations supplemental to the witchweed quarantine (7 CFR 301.80–2), under section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee) and sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), administrative instructions appearing as 7 CFR 301.80–2a are hereby revised to read as follows:

§ 301.80–2a Administrative instructions designating regulated areas under the witchweed quarantine.

Infestations of the witchweed have been determined to exist, in the quarantined States, in the civil divisions and premises, or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such civil divisions and premises, and parts thereof, and all highways and roadways abutting thereon, are hereby designated as witchweed regulated areas within the meaning of the provisions in this subpart:

NORTH CAROLINA

Bladen County. All of Bladen County.

Brunswick County. The B. Coda Smith farm located on the west side of a dirt road and 0.6 mile north of its junction with State Secondary Road 1322, said junction being 0.1 mile west of the junction of State Secondary Road 1322 and State Secondary Road 1321.

The John R. Russ farm located on both sides of State Secondary Road 1308 and 1 mile west of the junction of said road with State Highway 904 at Longwood.

Columbus County. That part of the county lying north and west of a line beginning at a point where Livingston Creek junctions with the Cape Fear River and extending south along said creek to its intersection with the Seaboard Air Line Railroad, thence west along said railroad to its intersection with State Secondary Road 1740, thence northwest and south along said road to its junction with U.S. Highways 74 and 76, thence west along said highways to their intersection with Bogue Swamp, thence south along said swamp to its junction with the Waccamaw River and continuing south along said river to its junction with White Marsh Swamp, thence north and northwest along said swamp to its junction with Cypress Creek, thence southwest along said creek to its intersection with State Highway 130, thence northwest along said highway to its junction with State Secondary Road 1157, thence southwest along said road to its junction with U.S. Highway 701, thence south and west along said highway to its intersection with State Secondary Road 1314, thence west along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with the North Carolina-South Carolina State line.

The A. J. Norris farm located on both sides of State Secondary Road 1134 and 1 mile south of its junction with State Secondary Road 1005.

The J. Carl Prince farm located on both sides of State Secondary Road 1119 and 2.2 miles west of its junction with State Secondary Road 1103.

Cumberland County. That portion of the county lying south and east of a line beginning at the intersection of the Cumberland-Hoke County line and U.S. Highway 401 and extending east along said highway to its junction with U.S. Highway 301, thence northeast along said highway to its junction with Interstate Highway 95, thence northeast along said highway to its junction with State Secondary Road 1005, thence northeast along said road to its junction with the Cumberland-Sampson County line, excluding the corporate limits of the city of Fayetteville.

The T. G. Green farm located on the north side of U.S. Highway 401 and 0.3 mile northwest of the intersection of said highway with State Secondary Road 1609.

The E. V. Nixon farm located on both sides of State Secondary Road 1706 and 1 mile south of the juncton of said road with State Secondary Road 1609.

The Robert Westly Williams farm located on the north side of State Secondary Road 1813 and 0.1 mile southeast of the intersection of said road with Interstate Highway 95.

The Troy Matthews farm located on the north side of State Secondary Road 1813 and 0.2 mile southeast of the intersection of said road with Interstate Highway 95.

The Willie Hall farm located on the north side of State Secondary Road 1728 and 0.9 mile southwest of the junction of said road with State Secondary Road 1721.

The J. T. Piner farm located on the west side of U.S. Highway 401 and 0.3 mile north of the junction of said highway with State Secondary Road 1600.

Duplin County. That area bounded by a line beginning at a point where State Highway 24 intersects the Duplin-Sampson County line, thence north along said county line to its intersection with State Highway 403, thence northeast along said highway to its intersection with State Secondary Road 1004, thence southeast along said road to its junction with State Highway 11, thence southwest along said highway to its junction with State Highway 24, thence northwest along said highway to the point of beginning, excluding the corporate limits of the towns of Faison, Kenansville, and Warsaw.

That area bounded by a line beginning at a point where State Secondary Road 1702 intersects State Highway 24, thence east along said highway to its junction with State Secondary Road 1962, said junction being 0.7 mile west of Beulaville, thence south along State Secondary Road 1962 to its junction with State Secondary Road 1724, thence southwest along said road to its junction with State Secondary Road 1800, thence northwest along said road to its junction with State Secondary Road 1961, thence west along said road to its junction with State Secondary Road 1702 at Hallsville, thence north along said road to the point of beginning.

The Paisly Bouham farm located on the north side of State Secondary Road 1977 and 1 mile west of Pin Hook.

The George Branch farm located on the north side of State Highway 11 and 0.4 mile west of the point where said highway intersects the Duplin-Lenoir County line at Pink Hill.

The Jeff Herring farm located on the north side of State Secondary Road 1545 and 1 mile west of the junction of said road with State Secondary Road 1543.

The J. L. Rich farm located on the west side of State Secondary Road 1923 and at the junction of said road with State Secondary Road 1922.

The Faison Smith farm located on the north side of State Secondary Road 1546 and 0.5 mile west of junction of said road with State Secondary Road 1543.

Harnett County. That area bounded by a line beginning at a point where the Harnett-Lee County line and State Secondary Road 1214 intersect and extending east along said road to its junction with State Secondary Road 1208, thence southeast along said road to its junction with State Highway 27, thence east along said highway to its junction with State Secondary Road 1117, thence south along said road to its junction with State Secondary Road 1128, thence east along said road to its junction with State Highway 210, thence northeast along said highway to its junction with State Secondary Road 2030, thence southeast along said road to its junction with State Secondary Road 2031, thence south along said road to its junction with the Harnett-Cumberland County line, thence west along said county line to its junction with the Harnett-Moore County line, thence northwest and northeast along said county line to its junction with the Harnett-Lee County line, thence northeast along said county line to the point of beginning.

That area bounded by a line beginning at a point where State Highway 55 and State Secondary Road 1500 join and extending east along said road to the Harnett-Johnston County line, thence south along said county line to its junction with State Secondary Road 1552, thence south along said road to its junction with State Highway 27, thence west along said highway to its intersection with State Secondary Road 1519, thence north along said road to its junction with State Secondary Road 1542, thence north along said road to its junction with State Highway 55, thence north along said highway to the point of beginning, excluding the corporate limits of the towns of Angier, Buies Creek, and Coats.

Hoke County. That portion of the county lying south and west of the southern and southwestern boundaries of Fort Bragg Military Reservation.

Johnston County. That area bounded by a line beginning at a point where State Secondary Road 1116 and State Highway 50 intersect and extending southeast along said highway to its intersection with the Johnston-Sampson County line, thence northwest along said county line to its intersection with State Highway 242, thence north along said highway to its intersection with State Secondary Road 1116, thence east along said road to the point of beginning.

The Rufus P. Beasley farm located on the west side of State Secondary Road 1138, and

0.4 mile south of its junction with Secondary Road 1144.

Jones County. The Ernest W. Humphrey farm located on the south side of State Secondary Road 1116 and 1.7 miles west of the junction of said road with State Secondary Road 1115.

The Maysville Supply Company property located on the south side of State Secondary Road 1116 and 1.8 miles west of the junction of said road with State Secondary Road 1115.

The Leah Smith property located in the town of Trenton on the south side of Jones Street at a point 0.5 mile west of the junction of said street and Webber Street.

Lenoir County. That area bounded by a line beginning at a point where U.S. Highway 70 and State Secondary Road 1324 join and extending southwest and west along said road to its junction with State Secondary Road 1308, thence southwest along said road to its junction with State Secondary Road 1152, thence south along said road to its intersection with the Neuse River, thence west along said river to its intersection with the Lenoir-Wayne County line, thence north along said county line to its intersection with U.S. Highway 70, thence east and southeast along said highway to the point of beginning, excluding the corporate limits of the town of LaGrange.

The Roland Carter farm located on the east side of State Highway 11 and 0.2 mile south of the junction of said highway and State Secondary Road 1113.

The R. A. Mewborn farm located on the north and south side of State Secondary Road 1300 and on the east side of Secondary Road 1002 at the intersection of the above-mentioned roads.

Montgomery County. The Colon Hoover farm located on the southwest side of State Secondary Road 1524 and 0.9 mile northwest of the intersection of said road with the Montgomery-Moore County line.

The Haywood N. Thomas farm located on the southwest side of State Secondary Road 1524 and 0.8 mile northwest of the intersection of said road with the Montgomery-Moore County line.

The Therese Edward Glover farm located on the southwest side of State Secondary Road 1524 and 0.7 mile northwest of the intersection of said road with the Montgomery-Moore County line.

Moore County. The William A. Latom farm located on the east side of State Secondary Road 1004 and 0.3 mile north of the intersection of said road with State Secondary Road 1113.

The Hattie J. McLaurin farm located on the north side of State Highway 211 and 0.3 mile west of the junction of said highway with State Secondary Road 2075.

The David Green farm located on the south side of State Secondary Road 2074 and 0.5 mile west of the intersection of said road with State Secondary Road 2075.

The J. W. Henning's Estate farm located on the east side of State Secondary Road 2017 and 0.4 mile north of the intersection of said road with State Secondary Road 1001.

The Elijah Faulk farm located at the end of State Secondary Road 2016 and 0.4 mile east of the junction of said road with State Secondary Road 2014.

The R. P. Beasly farm located on the east side of U.S. Highway 1 and 0.7 mile northeast of the junction of said highway with U.S. Highway 1A.

The Ernest L. Ives farm located on both sides of a dirt road 0.3 mile west of junction of said road with State Secondary Road 2075, said junction being 0.2 mile south of intersection of said road with State Secondary Road 2074.

Pender County. That area bounded by a line beginning at a point where State Secondary Road 1209 intersects the Pender-Sampson County line, thence east along said road to its intersection with U.S. Highway 421, thence southeast along said highway to its intersection with State Secondary Road 1113, thence southwest along said road to its intersection with the Atlantic Coast Line Railroad, thence northwest along said railroad to its intersection with State Secondary Road 1120 at Currie, thence southwest along said highway to its junction with State Secondary Road 1103, thence southeast along said road to its junction with State Secondary Road 1104, thence southwest and northwest along said road to the Pender-Bladen County line, thence northeast and northwest along said county line to its junction with the Pender-Sampson County line, thence northeast along said county line to the point of beginning, excluding the corporate limits of the towns of Currie and Atkinson.

That area bounded by a line beginning at a point where State Secondary Road 1517 junctions with U.S. Highway 117, thence northwest along said highway to its intersection with State Secondary Road 1412, thence east along said road to its junction with State Secondary Road 1411, thence southwest along said road to its intersection with Pike Creek, thence southeast along said creek to its junction with the Northeast Cape Fear River, thence south along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1518, thence southeast along said road to its junction with State Secondary Road 1517, thence west along said road to the point of beginning.

The Katy Shaw farm located on the east side of State Secondary Road 1520 and 3.6 miles north of the junction of said road and State Highway 210.

The John H. Williams and Heirs farm located on the east side of State Secondary Road 1520 and 2.7 miles north of the junction of said road and State Highway 210.

Pitt County. The J. D. Hice farm located on the northeast side of State Secondary Road 1401 and 0.5 mile northwest of its junction with State Secondary Road 1402.

The Allen Garris farm located on the northeast side of State Secondary Road 1401 and 0.6 mile northwest of its junction with State Secondary Road 1402.

Richmond County. The Mrs. A. W. Porter farm (formerly the A. M. Waddell farm) located on the northeast side of State Secondary Road 1999 and 1 mile east of the intersection of said road with U.S. Highway 1, said intersection being 1.2 miles southwest of Diggs.

The Dormic Dial farm located on the north side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

Robeson County. All of Robeson County.

Sampson County. That area bounded by a line beginning at a point where U.S. Highway 421 crosses the Harnett-Sampson County line, thence southeast along said highway to its intersection with State Highway 24, thence east along said highway to its intersection with the Sampson-Duplin County line, thence south along said county line to its intersection with State Secondary Road 1948, thence west along said road to its junction with U.S. Highway 421, thence south along said highway to Harrell's Store, thence south and southwest along State Secondary Road 1007 to its junction with the Sampson-Bladen County line, thence northwest along said county line to its junction with the Sampson-Cumberland County line, thence northwest and north along said County line to its junction with the Sampson-Harnett County line, thence north along said county line to the point of beginning, excluding the corporate limits of the towns of Clinton and Harrell's Store.

The Kenneth Chambers farm located on the west side of State Secondary Road 1908 and 0.2 mile south of its intersection with the Sampson-Duplin County line.

The Riegel Paper Company farm (formerly the Regal Paper Company farm) located on the west side of State Secondary Road 1908 and 50 yards south of its intersection with the Sampson-Duplin County line.

The Jasper Strickland farm located on the west side of State Secondary Road 1717 and 0.4 mile north of its junction with State Secondary Road 1722.

The Craig Herring farm located on the north side of State Secondary Road 1815 and 0.3 mile east of its junction with State Secondary Road 1309.

The R. J. Lewis farm located on the north side of State Secondary Road 1828 and 0.3 mile west of its junction with State Secondary Road 1827, said junction being 0.4 mile south of the junction of State Secondary Roads 1827 and 1746.

Scotland County. That area bounded by a line beginning at a point where U.S. Highway 401 crosses the North Carolina-South Carolina State line and extending northeast along said highway to its junction with U.S. Highway 401A, thence north along said highway to its intersection with U.S. Highway 74, thence west along said highway to its intersection with State Secondary Road 1116, thence north along said road to its junction with State Secondary Road 1324, thence north along said road to its junction with State Secondary Road 1345, thence northeast along said road to its junction with State Secondary Road 1341, thence northeast along said road to its junction with State Secondary Road 1328, thence north along said road to its intersection with the southern boundary of the Sandhills Game Management Area, thence east along said boundary to its intersection with U.S. Highway 501, thence north along said highway to its intersection with the Scotland-Hoke County line, thence southeast along said county line to the Scotland-Robeson County line, thence south and southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said state line to the point of beginning, excluding the corporate limits of the town of Laurinburg.

Wayne County. That area bounded by a line beginning at a point where U.S. Highway 70 and the Wayne-Lenoir County line intersect and extending south along said county line to its junction with the Wayne-Duplin County line, thence southwest and west along said county line to its intersection with the Atlantic Coast Line Railroad, thence northeast and north along said railroad to its intersection with State Secondary Road 1120, thence east along said road to its junction with State Secondary Road 1915, thence east along a line projected from a point beginning at the junction of State Secondary Roads 1120 and 1915 and extending east to the junction of said line with the junction of Sleepy Creek and Neuse River, thence east along the Neuse River to its intersection with State Highway 111, thence north along said highway to its junction with U.S. Highway 70, thence southeast along said highway to the point of beginning, excluding the corporate limits of the towns of Dudley, Mt. Olive and Seven Springs.

The Mrs. Robert Barwick farm (C. S. Pennington Estate) located on both sides of State Secondary Road 1109 and 0.6 mile east of its junction with State Secondary Road 1105, said junction being 1 mile north of the town of Dobbersville.

The Early Raynor farm located on the south side of State Highway 102 and 1.5 miles west of Grantham.

SOUTH CAROLINA

Chesterfield County. The Elise J. Parker farm located on the south side of State Secondary Highway 61 and 0.1 mile east of

its intersection with State Secondary Highway 348.

Darlington County. That area bounded by a line beginning at a point where the Great Pee Dee River and the Darlington-Florence County line join and extending southwest along said county line to its intersection with State Secondary Highway 173, thence northwest along said highway to its junction with State Secondary Highway 228, thence northwest along said highway to its intersection with the Atlantic Coast Line Railroad, thence north along said railroad to its intersection with State Secondary Highway 29, thence east along said highway to its intersection with Hurricane Branch, thence northeast along said branch to its junction with Byrds Island, thence along the west and south boundary of Byrds Island to its junction with the Great Pee Dee River, thence south along said river to the point of beginning.

The Jessie K. Jordan farm located on the west side of a dirt road and 0.2 mile northeast of its junction with a second dirt road, said junction being 0.1 mile northeast of junction of said second dirt road and State Secondary Highway 44, said second junction being 0.3 mile northeast of junction of said highway and State Primary Highway 403.

Dillon County. All of Dillon County.

Florence County. That area bounded by a line beginning at a point where U.S. Highway 76 and the Great Pee Dee River intersect and extending south along said river to its junction with Bigham Branch, thence west along said branch to its intersection with State Secondary Highway 88, thence west along said highway to its junction with State Secondary Highway 132, thence northwest along said highway to its intersection with State Secondary Highway 105, thence south along said highway to its intersection with the corporate limits of the town of Hyman, thence south along the west perimeter of said corporate limits to its intersection with State Primary Highway 51, thence northwest along said highway to its intersection with State Primary Highway 327, thence west along said highway to its intersection with the Atlantic Coast Line Railroad, thence north along said railroad to its intersection with Middle Swamp, thence northeast along said swamp to its junction with Jeffries Creek, thence southeast along said creek to its intersection with State Primary Highway 327, thence north along said highway to its junction with State Secondary Highway 89, thence north along said highway to its intersection with U.S. Highway 76, thence west along said highway to its junction with State Secondary Highway 925, thence north along said highway to its junction with State Secondary Highway 24, thence east and southeast along said highway to its intersection with U.S. Highway 76, thence east along said highway to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Highway 794 and State Secondary Highway 72 junction and extending south along State Secondary Highway 72 to its intersection with State Secondary Highway 46, thence northeast along said highway to its intersection with State Secondary Highway 34, thence southeast along said highway to its junction with State Secondary Highway 360, thence northeast along said highway to its junction with a dirt road, said junction being 1.6 miles northeast of junction of State Secondary Highways 34 and 360, thence southeast along said dirt road for a distance of 1.2 miles to its junction with a second dirt road, thence southwest along said dirt road to its junction with State Secondary Highway 34, thence south along said highway to its junction with U.S. Highway 378, thence west along said highway to its junction with State Secondary Highway 47, thence northwest and west along said highway to the corporate limits of the town of Scranton, thence north and west along the east and north perimeter of said corporate limits to its intersection with the Atlantic Coast Line Railroad, thence north along said railroad to the corporate limits of the town of Coward, thence north along the east perimeter of the town of Coward to its intersection with State Secondary Highway 794, thence northeast along said highway to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Highway 66 and State Primary Highway 51 intersect and extending southeast along State Primary Highway 51 to its intersection with Little Swamp, thence northeast along said swamp for a distance of 1.2 miles to its intersection with a dirt road, thence southeast along said dirt road to its intersection with Deep Creek, thence southwest along said creek to its junction with Lynches River, thence west along said river to its intersection with State Secondary Highway 49, thence north along said highway to its junction with State Secondary Highway 66, thence north and northeast along said highway to the point of beginning, excluding all of the corporate limits of the town of Salem.

The A. A. Alford farm located on both sides of State Secondary Highway 164 and 0.1 mile south of its intersection with Cypress Branch.

The Hattie Carroway farm located on the south side of State Secondary Highway 72 and 1 mile southwest of its intersection with U.S. Highway 52.

The S. L. Yarborough farm located on both sides of State Secondary Highway 95 and 1.7 miles southeast of Sardis.

Horry County. That area bounded by a line beginning at a point where U.S. Highway 701 crosses the South Carolina-North Carolina State line and extending south along said highway to its intersection with State Primary Highway 9, thence east and southeast along said highway to its junction with State Primary Highway 905, thence west along said highway to its junction with State Secondary Highway 31, thence south along said highway to its intersection with the Waccamaw River, thence westward along said river to its intersection with U.S. Highway 501, thence northwest along said highway to its intersection with the Little Pee Dee River, thence northeast along said river to its junction with the Lumber River, thence northeast along said river to its intersection with the South Carolina-North Carolina State line, thence southeast along said state line to the point of beginning, excluding the corporate limits of the towns of Aynor, Conway, and Loris.

The Canal Wood Corporation farm located on the west side of a dirt road and 0.75 mile south of its junction with State Primary Highway 90, said junction being 1.25 miles west of the junction of said highway and State Secondary Highway 57.

The Ben Edge farm located on the south side of State Primary Highway 90 and at the junction of said highway and State Secondary Highway 31.

The Bud Neals Graham farm located at the end of a dirt road and 0.6 mile east of junction with a second dirt road, said junction being 0.75 mile south of junction of second dirt road and State Secondary Highway 78, said second junction being 0.75 mile southeast of Juniper Bay Church.

The Alex Alford farm located on the south side of a dirt road and being 2 miles southwest and west of junction of said dirt road and State Secondary Highway 99, said junction being 1.75 miles north of junction of said highway and State Secondary Highway 97.

The Rosetta Inman farm located on the northwest side of a junction of two dirt roads, said junction being 1.4 miles northwest of intersection of dirt road running northwest from State Secondary Highway 57 at Brooksville.

The John A. Atkinson farm located on the east side of a dirt road and being 1 mile north of junction of said dirt road with U.S. Highway 378 and State Secondary Highway 63.

Marion County. That area bounded by a line beginning at a point where the Marion-Dillon County line and the Lumber River join and extending southwest along said river to its junction with Little Pee Dee River, thence southwest along said river to its junction with Reedy Creek, thence northwest along said creek to its intersection with State Primary Highway 41, thence northeast along said highway to its junction with State Secondary Highway 33, thence west along said highway to its intersection with State Primary Highway 41A, thence north along said highway to its junction with State Secondary Highway 389, thence north along said highway to its junction with U.S. Highway 501, thence northwest along said highway to its intersection with U.S. Highway 76, thence west along said highway to its junction with State Secondary Highway 64, thence due southwest along a line projected from said intersection to the Marion-Florence County line, thence northwest and north along said county line to its junction with Marion-Dillon County line, thence north and northeast and southeast along said county line to the point of beginning, excluding all the corporate limits of the towns of Marion, Mullins, Nichols, and Sellers, except the W. P. Clark farm located on Marion Street in the town of Mullins one block south of the Mullins Armory, and the Harry Sellers farm located on the west side of U.S. Highway 301 in the town of Sellers.

That area bounded by a line beginning at a point where State Secondary Highway 9 and State Secondary Highway 40 junction and extending southeast along State Secondary Highway 40 to its junction with State Secondary Highway 47, thence southwest along said highway to its junction with State Secondary Highway 9, thence south along said highway to its junction with U.S. Highway 378, thence southwest along said highway to its intersection with the Great Pee Dee River, thence northwest along said river to its junction with Catfish Creek, thence north along said creek to its junction with Collins Creek, thence east and southeast along said creek to its junction with State Secondary Highway 9, thence southwest along said highway to the point of beginning.

That area bounded by a line beginning at a point where U.S. Highway 378 and State Secondary Highway 86 junction and extending north along State Secondary Highway 86 for 0.4 mile to its intersection with a stream, thence east along said stream to its junction with the Little Pee Dee River, thence south along said river to its junction with the Sampson Landing Road, thence west along said road to its junction with State Secondary Highway 49, thence northwest along said highway to its junction with U.S. Highway 378, thence southeast along said highway to the point of beginning.

The William Davis farm located on the northeast side of a dirt road and 1.5 miles southeast of its junction with State Secondary Highway 9, said junction being 1.5 miles northeast of the junction of said highway and State Secondary Highway 40.

The Paul Richardson farm located on the southeast side of State Secondary Highway 207 and 1.35 miles southwest of its junction with State Primary Highway 908.

The Paul J. Richardson farm (The Paul J. Richardson Estate) located on the northwest side of the State Secondary Highway 207 and 1.5 miles southwest of its junction with State Primary Highway 908.

Marlboro County. That portion of the county lying south and east of U.S. Highway 15, excluding the corporate limits of the towns of Bennettsville, McColl, and Tatum.

The Marvin Strong farm located on the south side of the South Carolina-North Carolina State line and 1.3 miles east of its junction with State Primary Highway 77.

The Cleveland McKay farm located on the north side of State Secondary Highway 54 and the west side of State Secondary Highway 30 at the intersection of said highways.

The Tony Rosser farm located on the east side of a dirt road and 0.6 mile northeast of junction of said dirt road and State Secondary Highway 30, said junction being 0.3 mile north of said highway and State Secondary Highway 54.

The Pauline Steel farm located on the north side of State Secondary Highway 63 and the east side of Crooked Creek at the intersection of said highway and creek.

Williamsburg County. The S. Wayne Gamble farm located on both sides of State Primary Highway 375 and 2 miles southeast of its intersection with U.S. Highway 52.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 162, 150ee; 19 F.R. 74, as amended; 7 CFR 301.80–2. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161)

These revised administrative instructions shall become effective April 20, 1961, when they shall supersede P.P.C. 627, 3d Revision, effective June 14, 1960 (7 CFR 301.80–2a).

This revision adds to the regulated areas in both North Carolina and South Carolina. Additions are made hereby to existing regulated areas in the following counties: North Carolina—Counties of Columbus, Cumberland, Duplin, Johnston, Lenoir, Pender, Richmond, Sampson, and Wayne; South Carolina—Counties of Darlington, Florence, Horry, Marion, and Marlboro. In counties in these States which heretofore contained no regulated areas, 16 properties are now designated as regulated areas as follows: North Carolina—Jones County (3 properties), Montgomery County (3 properties), Moore County (7 properties), Pitt County (2 properties); South Carolina—Chesterfield County (1 property).

These instructions should be made effective as soon as possible in order to be of maximum benefit in preventing the interstate spread of witchweed infestations. Accordingly, it is found upon good cause that notice and other public procedure under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) are impracticable, and good cause is found for making the instructions effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of April 1961.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 61–3565; Filed, Apr. 19, 1961; 8:47 a.m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 820]

PART 820—REQUIREMENTS RELATING TO NON-QUOTA PURCHASE SUGAR FOR THE CALENDAR YEAR 1961

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820.4 Source of non-quota purchase sugar.
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820.7 Release by a Collector of Customs.
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820.10 Records and reports.
820.11 Delegation of authority.

AUTHORITY: §§ 820.1 to 820.11 issued under sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 101, 408; 61 Stat. 922, as amended, 933, as amended; 7 U.S.C. 1101, 1158; Pub. Law 87–15, approved Mar. 31, 1961. Presidential Proclamation 3401 (26 F.R. 2849).

§ 820.1 Basis and purpose, and persons affected.

(a) The regulations in this part are issued under the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended), and as further amended by Public Law 87–15, approved March 31, 1961, and the authority delegated under Presidential Proclamation 3401. These regulations established and set forth for the period April 1, 1961 through December 31, 1961, (1) the amounts of non-quota purchase sugar which may be imported into the continental United States (including Alaska) for consumption therein from individual foreign countries and (2) the procedures applicable to importing such sugar.

(b) Persons affected by the provisions of this part include importers, mainland refiners, shipping companies engaged in the transportation of sugar to ports in the continental United States, and persons otherwise engaged in the movement of sugar in interstate or foreign commerce.

(c) In H.R. Report No. 79 of the 87th Congress 1st Session accompanying H.R. 5463 which was enacted as Public Law 87–15 approved March 31, 1961, the suggestion was made by the Committee on Agriculture that measures be taken in administering the purchase of non-quota sugar under section 408(b) of the Act to assure that such sugar is produced from sugarcane or sugar beets grown in the supplying country, and to avoid such sugar being made available by the importation of Cuban sugar into the country supplying non-quota purchase sugar. By reference to the statistical Bulletins of the International Sugar Council and other official records of the Department, Belgium, Canada, The Netherlands, and the United Kingdom have been identified as countries which purchased and imported Cuban sugar in 1960.

In order to study the extent to which conditions for authorizing purchase of non-quota sugar may be imposed that are appropriate under the prevailing circumstances in light of the views of the Committee on Agriculture, authorization for purchase of non-quota purchase sugar from Belgium, Canada, The Netherlands and the United Kingdom is being deferred at this time.

(d) In view of the new sugar legislation aproved March 31, 1961, it is necessary that the exact quantities of non-quota sugar which will be authorized for purchase and importation during the period April 1, 1961 through December 31, 1961, be established immediately to provide for an orderly and adequate flow of sugar in April and throughout the remainder of the year. Accordingly, it is hereby found and determined that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act is impracticable and contrary to the public interest and this part shall become effective when filed for public inspection in the Office of the Federal Register.

§ 820.2 Definitions.

As used in this part:

(a) The term "act" means the Sugar Act of 1948, as amended (61 Stat. 922, as amended).

(b) The term "person" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has lawfully delegated the authority or to whom authority may hereafter be delegated to act in his stead.

(e) The term "Sugar Division" means the Sugar Division of the Commodity Stabilization Service, of the Department, Washington 25, D.C., or any other organizational unit within the Department to which administration of the Sugar Act may hereafter be delegated.

(f) The term "Collector" means the Collector of Customs, U.S. Bureau of Customs, for the District in which the port of entry is located or any officer of the Bureau of Customs designated to act in his stead.

(g) The terms "import," "importation," and "importing" mean the act of bringing sugar into the continental United States (including Alaska) from a foreign country.

(h) The term "importer" means any person who brings or imports sugar into the continental United States (including Alaska), including but not limited to the owner, consignor, consignee, transferee or purchaser of such sugar or the broker acting on behalf of such person.

(i) The term "refiner" means any person who subjects offshore sugar to processes as provided in Part 810 of this subchapter.

(j) The terms "sugars," "sugar," and "raw sugar" have the meanings ascribed to each in section 101 (b), (c), and (d), respectively, of the act subject to the provisions of Part 810 of this subchapter which are hereby made applicable to non-quota purchase sugar.

(k) The term "non-quota purchase sugar" means sugar purchased pursuant to the provisions of section 408(b) of the act.

§ 820.3 Non-quota purchases of sugar authorized.

Non-quota purchases of sugar, in accordance with section 408(b) of the Act, are authorized to be made in accordance with the provisions of this part. Such non-quota purchases must be made from the producer of such sugar or from a citizen, partnership, corporation, or other legal entity, or Government agency, of the country in which the sugar was produced, for shipment to the United States, or after shipment to the United States. Pursuant to section 408(b) of the Act, the President by Proclamation No. 3401 established the amount of the quotas for sugar and for liquid sugar for Cuba for the calendar year 1961 at zero. At a level of consumption requirements for consumers in the United States of 10,000,000 short tons, raw value of sugar for 1961, the amount of the quotas that otherwise would have been provided for Cuba under the terms of Title II of the Act for the calendar year 1961 are 3,297,195 short tons, raw value of sugar and 7,970,558 wine gallons of liquid sugar, 72 percentum total sugar content, which represent the quantities that may be caused or permitted to be brought or imported into or marketed in the United States during the calendar year 1961 pursuant to section 408(b) of the Act. Sugar Regulation 819, effective for the period January 1, 1961, through March 31, 1961, permitted the importation of 824,299 short tons, raw value, of non-quota sugar pursuant to section 408(b) of the Act. Thus, the amounts available for allocation to foreign countries pursuant to section 408(b) of the Act for the period April 1, 1961, through December 31, 1961, are 2,472,896 short tons, raw value of sugar and 7,970,558 wine gallons of liquid sugar.

(b) In § 820.4 a total of 1,263,776 short tons, raw value of non-quota purchase sugar is authorized for purchase. The authorization for purchase of 912,753 short tons, raw value of this total is based upon a proration, in accordance with section 408(b)(2) of the Act, of 1,472,896 short tons, raw value to foreign countries with which the United States is in diplomatic relations and for which quotas have been established pursuant to section 202 of the Act except for those countries specified in § 820.1(c). Peru and Nicaragua will be unable to supply 155,167 short tons, raw value, of their prorations. This quantity plus 195,856 short tons, raw value, of the proration for the Dominican Republic under section 408(b)(2)(iii) of the act, or a total of 351,023 short tons, raw value, is authorized for purchase from foreign countries in accordance with the proviso in section 408(b)(2)(iii) of the act. In authorizing the purchase of the additional amount of 351,023 short tons, raw value from Brazil, Colombia, Costa Rica, Ecuador, El Salvador, French West Indies, Guatemala, Haiti and Formosa, in accordance with the proviso in section 408(b)(2)(iii) of the act, special consideration was given to countries of the Western Hemisphere and to those countries purchasing United States agricultural commodities. Of the 2,472,896 short tons, raw value, which may be authorized for purchase, 1,200,000 tons, including 200,000 tons of the proration for the Dominican Republic, is not being authorized for purchase at this time and, as provided in § 820.1(c), authorization for the purchase of a total of 9,120 short tons, raw value, of non-quota purchase sugar from Belgium, Canada, The Netherlands and the United Kingdom is being deferred at this time. Also, the 7,970,558 wine gallons of liquid sugar are not allocated or authorized for purchase at this time.

§ 820.4 Source of non-quota purchase sugar.

(a) The amounts of non-quota purchase sugar permitted to be imported into the continental United States for consumption therein from individual foreign countries during the period April 1, 1961, through December 31, 1961, are as follows:

Country:	*Short tons, raw value*
China (Formosa)	79,765
Costa Rica	14,774
Haiti	26,572
Panama	4,515
Republic of the Philippines	218,048
British West Indies and British Guiana	65,549
Hong Kong	11
Mexico	339,775
Nicaragua	9,897
Peru	329,870
Brazil	100,000
Colombia	15,000
Ecuador	15,000
El Salvador	10,000
French West Indies	25,000
Guatemala	10,000
Total	1,263,776

The regulation can be amended from time to time to increase or decrease the quantities of sugar authorized for purchase from any of the countries named herein or to establish quantities for countries or groups of countries which are not named herein if it later appears that supplies from any country or countries will not be forthcoming in a manner that meets the requirements of this market.

(b) It is hereby found that raw sugar is not reasonably available in sufficient quantity to supply our requirements during the remainder of the calendar year 1961. Accordingly, non-quota purchase sugar testing in excess of 99 degrees polarization is authorized for importation to be further refined or improved in quality in the United States, and non-quota purchase sugar imported from any country for which the total permitted quantity of non-quota purchase sugar, as established in paragraph (a) of this section, is 7,500 short tons, raw value, or less may be released for direct-consumption.

(c) To give effect to Article 7 of the International Sugar Agreement which limits total importations in any year from non-participating countries, no sugar may be authorized to be imported from any country that is not a participant in the International Sugar Agreement.

§ 820.5 Requirements relating to importing non-quota purchase sugar.

(a) Notwithstanding the provisions of Part 817 of this chapter, non-quota purchase sugar may be imported from the country where produced in accordance with the provisions of this part. The provisions of this part apply only to non-quota purchase sugar.

(b) Non-quota purchase sugar shall be imported only at Customs ports of entry.

(c) A copy of the ship's manifest, bills of lading, or other shipping documents covering all sugar in a shipment must be submitted to the Collector within 72 hours after the beginning of unlading of the sugar.

(d) The Collector shall take custody of such sugar and shall retain custody, at the risk and expense of the consignee or owner, until authorized to permit release thereof in accordance with § 820.7. In taking and retaining custody pursuant to these regulations, the Collector shall be governed by the provisions of §§ 4.37, 4.38, 19.1 to 19.9 and 19.12 of Chapter I, Title 19, Code of Federal Regulations, which are made applicable to such custody by reference as fully as if set forth in full herein.

§ 820.6 Application by importer.

(a) A separate application must be submitted as specified in paragraph (c) of this section on appropriate copies of a form prescribed by the Secretary entitled "Sugar Quota Clearance Record," with the changes hereinafter specified, not more than 10 days prior to the departure date stated thereon, showing the following information regarding the sugar to be delivered to a single refinery or importer from each cargo:

(1) *Port and date of arrival.* If the port is not known when the application is submitted, this information must be supplied before a Collector will be authorized to release the sugar.

(2) Name of the vessel or other specific identification of the carrier.

(3) Name of the producing area, the port of lading and the date the carrier is expected to depart from such port.

(4) Name and address of the person to whom delivery is to be made from the importing carrier. If not known when an application is submitted to the Sugar Division, this information must be supplied before a Collector will be authorized to release the sugar.

(5) Quantities, in pounds, to be imported as shown on the application; if in bags, identified by marks, quantities should be shown separately for each mark. The designation of separate quantities within the total to be imported which are identified by separate marks shall be shown on the report required pursuant to paragraph (f) of this section, if such information cannot be shown at the time the application is submitted.

(6) Name, address and authorized signature of the applicant.

(b) Any application made pursuant to this section constitutes a representation by the applicant that at the time the application is made:

(1) He has control of the quantity of sugar which is subject to shipment as specified;

(2) Firm commitment has been made by the shipping company for shipment as described on the application; and

(3) The date of departure of the vessel or carrier stated on the application is (i) the date specified to the applicant or shipper by the Master, Owner or Agent of such vessel or carrier as the expected departure date, or (ii) the date the shipper expects the vessel to depart based on the date the vessel or carrier will be available for loading as specified by the Master, Owner or Agent of such vessel or carrier plus the normally required loading time.

(c) The application specified in paragraph (a) of this section shall be submitted to the Sugar Division for the issuance of an authorization by the Secretary to the appropriate Collector for the release of sugar as provided in § 820.7.

(d) The specified authorization by the Secretary required pursuant to § 820.7 may be issued prior to the receipt of an application on appropriate copies of the "Sugar Quota Clearance Record" provided all of the information required pursuant to paragraphs (a) and (e) of this section is transmitted to the Sugar Division by telegram and such advance authorization is necessary to avoid delay in the delivery of the sugar.

(e) Any application made pursuant to this section shall contain over the signature of the applicant, the following certification:

This application is made under Sugar Regulation 820 for importing non-quota purchase sugar and is subject to all of the provisions of such regulation. The applicant certifies that he (1) is the producer of the sugar, or (2) is a citizen, partnership, corporation, or other legal entity, or government agency, of the country in which the sugar is produced, or (3) has purchased such sugar from _____, the producer of such sugar, or from _____, a citizen, partnership, corporation, or other legal entity, or government agency, of the country in which the sugar was produced, for exportation to the United States.

(f) Within 30 days after release of the sugar by the Collector pursuant to § 820.7 the results of weights, samples and tests and the name of the person retaining the reserve portion of each sample as provided for in Part 810 of this subchapter shall be reported to the Sugar Division on the applicable copy of the "Sugar Quota Clearance Record" or a duplicate of such copy, together with information specified in paragraph (a) of this section. The period within which the report required pursuant to this paragraph must be made may be extended for good cause shown with respect to a specified shipment upon request to and approval by the Secretary.

§ 820.7 Release by a Collector.

A Collector of Customs may release sugar imported from any country for any purpose only pursuant to Part 817 of this chapter or upon specific authorization by the Secretary pursuant to § 820.8 with respect to each application required under § 820.6.

§ 820.8 Specific authorization for release.

(a) *Time of issue and duration of validity.* Specific authorizations by the Secretary for release by a Collector will be issued no more than 5 days prior to the stated date of departure of the vessel or other carrier on which the sugar is to be shipped. The authorization shall be valid for the period specified thereon, subject to extension by the Secretary for good cause, and shall be cancelled only if mistakenly issued, a misrepresentation was made, the shipment does not depart within 3 days of the date stated on the application, or importation does not occur during the period specified. In case the port of arrival or the name of the receiver is not known when the application becomes eligible pursuant to paragraph (b) of this section, the authorization will not be transmitted to the Collector until all the information required by paragraph (a) of § 820.6 is received in the Sugar Division.

(b) *Order of eligibility for authorization.* An application on file with the Sugar Division for the release of sugar shall become eligible for authorization at 12:01 a.m., on the fifth calendar day prior to the date stated on the application as the date of departure of the shipment of sugar from the country of origin or at the time of receipt of the application, whichever time occurs later. The Secretary shall authorize the release of sugar by the Collector within the unfilled portion of the amount of non-quota purchase sugar authorized to be imported from a country in the same order in which the applications pertaining to such country become eligible for authorization: *Provided,* That, if two or more applications pertaining to the same country become eligible for authorization at the same time, such applications shall be authorized in the order of their stated date of departure (earliest first), and in such case if two or more such applications have the same date of departure and the quantity which may be authorized within the unfilled amount of non-quota purchase sugar assigned to such country is less than the sum of the applied-for quantities, the quantity authorized for each application shall be in the same proportion to the quantity which may be authorized within the unfilled portion as the quantity requested on each such application is to the sum of the quantities requested on all such applications.

(c) *Extent of authorizations.* No authorization shall be issued when the quantity of non-quota purchase sugar released for consumption in the continental United States, together with the quantity covered by valid authorizations issued hereunder but not yet released, equals the amount of non-quota purchase sugar assigned to the country.

(d) *Denial of authorizations.* Authorizations on applications otherwise eligible may be denied if the applicant has failed to report in the manner and within the time prescribed in this part with respect to shipments previously imported.

§ 820.9 Determination of quantities and time of effect.

(a) Nonquota purchase sugar imported shall be subject to the amount authorized to be imported from the country in which the sugar was produced.

(b)(1) Each quantity authorized for release pursuant to § 820.8 shall be effective for filling the amount of nonquota purchase sugar at the time the applicable authorization is issued. For this purpose the raw value of the authorized quantity shall be estimated by considering the relationship between other authorized quantities for recent shipment from the same country and the raw values thereof determined as provided in Title I of the act on the basis of weights and tests determined pursuant to Part 810 of this subchapter and such other factors as the Secretary deems applicable.

(2) Upon receipt of and on the basis of the report required pursuant to § 820.6(f) covering an application initially given effect pursuant to subparagraph (1) of this paragraph, the quantity effective for filling the amount of nonquota purchase sugar shall be the quantity of sugar imported pursuant to the authorization to the extent of its raw value, as defined in Title I of the act and as finally computed from the weights and tests determined pursuant to Part 810 of this subchapter.

§ 820.10 Records and reports.

(a) For the purposes of this part, any quantities of sugar imported as crystalline sugar so converted and the raw value thereof shall be determined as prescribed in paragraph (1), (2), or (3) of section 101(h) of the act, applicable to the crystalline sugar so converted. Liquid sugar for which the quantities of converted crystalline sugar are unknown shall be reported in terms of the total sugar content and the raw value thereof shall be determined by multiplying the total sugar content by the factor 1.07.

(b) Each person subject to the provisions of this part shall keep and preserve, for a period of two years following the end of the calendar year in which the sugar was imported into the continental United States, an accurate record of the receipt, processing and movement of such sugar and of all tests and weights pertaining thereto. Upon request by any authorized employee of the Department,

such records shall be made freely available for examination by such employee during the regular working hours of any business day.

(c) Each person subject to the provisions of this part shall make application for authorizations provided for in this part and shall report information as and when required by the Secretary on forms specified by him and approved by the Bureau of the Budget under the Federal Reports Act of 1942. In addition to the applications, authorizations and reports otherwise specifically referred to in this part, this requirement shall include, but is not necessarily limited to, the information prescribed on Form SU–73, Form SU–74, or Form SU–75.

§ 820.11 **Delegation of authority.**

The Director, or Deputy Director, of the Sugar Division, or the Chief or Acting Chief of the Quota and Allotment Branch thereof, Commodity Stabilization Service of the Department, is hereby authorized to act for and on behalf of the Secretary in administering §§ 820.1 to 820.10.

Done at Washington, D.C., this 13th day of April 1961.

ORVILLE L. FREEMAN,
Secretary.

Concurred in for the Secretary of State by:

GEORGE W. BALL.

[F.R. Doc. 61–3558; Filed, Apr. 19, 1961; 8:46 a.m.]

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

[1033.301, Amdt. 4]

PART 1033—ONIONS GROWN IN SOUTH TEXAS

Limitation of Shipments

Findings. a. Pursuant to Marketing Agreement No. 143 and Order No. 133 (7 CFR Part 1033) regulating the handling of onions grown in designated counties of South Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the South Texas Onion Committee, established pursuant to said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments regulation, hereinafter set forth, will tend to effectuate the declared policy of the act.

b. It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) 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 handling of onions, 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, and (4) information regarding the committee's recommendation has been disseminated to producers and handlers in the production area.

Order, as amended. In § 1033.301 (26 F.R. 2169, 2456, 2589, 2820) delete the introductory paragraph and paragraphs (a) and (b) and substitute in lieu thereof a new introductory paragraph and new paragraphs (a) and (b) as set forth below.

§ 1033.301 **Limitation of shipments.**

During the period from April 20, 1961, through May 31, 1961, no person shall handle any lot of onions grown in the production area, except onions of red varieties, unless such onions meet grade requirements of paragraph (a) of this section, minimum sizing requirements of paragraph (b) of this section, and container requirements of paragraph (c) of this section, or unless such onions are handled in accordance with the provisions of paragraphs (d), (e), (f), and (g) of this section.

(a) *Grades*—(1) *Yellow varieties.* (i) Bermuda or Granex varieties: U.S. No. 1 or better grade;

(ii) Grano variety: not to exceed 20 percent defects of U.S. No. 1 grade.

(2) *White varieties.* Not to exceed 20 percent defects of U.S. No. 1 grade.

(b) *Minimum sizing requirements*—(1) *Yellow varieties.* (i) Bermuda or Granex varieties shall be packed only in the following sizes:

(*a*) Repacker size: 1¾ inches to 3 inches in diameter; or

(*b*) 2 inches to 3½ inches in diameter.

(ii) Grano variety shall be packed only in the following size: 2⅞ inches or larger in diameter.

(2) *White varieties.* White varieties shall be packed only in the following sizes:

(i) Small: 1 inch to 2¼ inches in diameter;

(ii) "Repacker": 1¾ inches to 3 inches in diameter;

(iii) 2 inches to 4 inches in diameter; or

(iv) 2⅞ inches or larger in diameter.

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

Effective date: Dated April 18, 1961, to become effective April 20, 1961.

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

[F.R. Doc. 61–3632; Filed, Apr. 19, 1961; 9:02 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—Agricultural Marketing Service (Packers and Stockyards Division), Department of Agriculture

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Annual Reports by Auction Market Operators

Notice is hereby given that the prescribed forms for annual reports by auction market operators required by § 201.97 of the regulations under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), are not yet available for distribution. Said section 201.97 provides that the annual reports shall be filed not later than April 15 following the calendar year end or, if the records are kept on a fiscal year basis, not later than 90 days after the close of the fiscal year.

In view of these circumstances, pursuant to authority delegated under the Act, the period during which annual reports shall be filed by auction market operators for the year 1960 is hereby extended until such date as will be specified in a further notice to be published in the FEDERAL REGISTER when such forms are available for distribution, and in a memorandum to be transmitted to each auction market operator with the prescribed forms.

Done at Washington, D.C., April 14, 1961.

JOHN T. COYNE,
Acting Director, Packers and Stockyards Division.

[F.R. Doc. 61–3564; Filed, Apr. 19, 1961; 8:47 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 25—PERMITS FOR ACCESS TO RESTRICTED DATA

Miscellaneous Amendments

In view of the fact that the Commission has previously published the proposed regulations for comment and has received a substantial number of comments and because interested persons will not be adversely affected, the Commission has found that good cause exists why the regulations in this part should be made effective without the customary 30-day period of notice.

Pursuant to the Administrative Procedure Act, Public Law 404, 79th Cong., 2d Sess., the following rules are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER.

1. Section 25.11 is amended by revising the undesignated sentence following paragraph (d)(7) to read as follows: "In addition, if access to Secret Restricted Data in Category C–65, Plutonium Production, or Category C–24, Isotope Separation-Gas Centrifuge Method, is requested, the application should also include sufficient information to satisfy the requirements of § 25.15(b) (2) or (3), as the case may be."

2. Section 25.15(b) is amended by adding subparagraph (3) as follows:

(3) An application for an access permit authorizing access to Secret Restricted Data in Category C–24, Isotope Separation-Gas Centrifuge Method, will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that he is capable of making a contribution to research and development in the gas centrifuge method of isotope separation and is directly engaged in or proposes to engage in a substantial research and development program in the centrifuge field or a substantial effort to develop, design, build or operate a gas centrifuge plant; or

(ii) Is furnishing to a permittee having access to Category C–24 under the subdivision (i) of this subparagraph substantial scientific, engineering or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to Category C–24.

3. Section 25.23 is amended as follows:

a. The following parenthetical sentence is added to paragraph (b): "(Note provisions of § 25.23(d).)"

b. The following sentence is added to paragraph (c)(4): "In the case of an access permit authorizing access to Secret Restricted Data in Category C–24, Isotope Separation-Gas Centrifuge Method, the agreement shall also provide for such requirements as the permittee considers necessary for purposes of fulfilling its obligations under paragraph (d) of this section."

c. The following new paragraph (d) is added:

(d) The following terms and conditions are applicable to an access permit authorizing access to Secret Restricted Data in Category C–24, Isotope Separation-Gas Centrifuge Method, irrespective of whether access to the Commission's Restricted Data information is desired:

(1) The permittee will, upon request, grant to the United States a nonexclusive, irrevocable license, to use and have used for Government purposes any U.S. patent or any U.S. patent application (otherwise in condition for allowance except for a secrecy order thereon) on any invention or discovery made or conceived, during the term of the permit and for one year thereafter, by the permittee or its employees or others engaged by the permittee, in the course of the permittee's work in the gas centrifuge field. The United States will pay reasonable royalties for any such use it may make of any such invention or discovery.

(2) The permittee will, upon request, grant to the Commission the right to use, for any Commission research, development, production, or manufacturing programs, any technical information or data of a proprietary nature, developed during the term of the permit, and for one year thereafter, by the permittee or its employees or others engaged by the permittee, in the course of the permittee's work in the gas centrifuge field and not covered by a U.S. patent or U.S. patent application referred to in subparagraph (1) of this paragraph. In the event that the Commission desires to make use of such proprietary technical information or data, it will pay reasonable compensation therefor. If the Commission disseminates any such proprietary technical information or data in its possession to any of its contractors for use in any Commission research, development, production, or manufacturing programs, it will do so under contractual provisions pursuant to which the contractor would undertake to use this information only for the work under the pertinent Commission contract. Notwithstanding the foregoing provisions of this subparagraph, the permittee waives any claim against the Commission for compensation, or otherwise, in connection with any use or dissemination of information or data not specifically identified and claimed by the permittee as proprietary in a written notice to the Commission at the time of the furnishing of the information or data to the Commission. As used in this subparagraph, the term "technical information or data of a proprietary nature" means information or data which:

(i) Is not the property of the Government by virtue of any agreement;

(ii) Concerns the details of trade secrets or manufacturing processes which the permittee has protected from use by others; and

(iii) Is specifically identified as proprietary at the time it is made available to the Commission.

Technical information or data shall not be deemed proprietary in nature whenever substantially the same technical information is available to the Commission which has been prepared, developed or furnished as non-proprietary information by another source independently of the proprietary information and data furnished by the permittee.

(3) The acceptance, exercise, or use of the licenses or rights provided for in subparagraphs (1) and (2) of this paragraph shall not prevent the Government, at any time, from contesting their validity, scope or enforceability.

(4) The permittee agrees to make quarterly reports to the Commission in writing, in reasonable detail, respecting all technical information or data which the permittee or the Commission considers may be of interest to the Commission, including reports of patent applications on inventions or discoveries and of technical information and data of a proprietary nature. These reports will cover the results of the permittee's work in the gas centrifuge field. All reports referred to in this subparagraph shall pertain only to activities during the term of the access permit and for one year thereafter.

(5) The permittee agrees to make available to the Commission, at all reasonable times, for inspection by Commission personnel, or by mutual agreement, others on behalf of the Commission, all experimental equipment and technical data developed, during the term of the permit and for one year thereafter, by the permittee or its employees or others engaged by the permittee, in the course of the permittee's work in the gas centrifuge field. The foregoing provision of this subparagraph shall be subject to the provisions of subparagraphs (1) and (2) of this paragraph.

4. Appendix A is amended by adding the following:

C–24 Isotope Separation—Gas Centrifuge Method. This category includes information on the following:

(a) Any aspect of separating one or more isotopes of an element from a composition containing a mixture of isotopes of that element by the gas centrifuge method.

(b) Design, construction and operation of any plant, facility or device capable of separating one or more isotopes of an element from a composition containing a mixture of isotopes of that element by the gas centrifuge method, including means and methods of transporting materials from one to another centrifuge.

Dated at Germantown, Md., this 13th day of April 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 61–3546; Filed, Apr. 19, 1961; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter II—International Cooperation Administration, Department of State

PART 201—PROCEDURES FOR FURNISHING ASSISTANCE TO COOPERATING COUNTRIES

Additional Price Limit for Sugar

ICA Regulation 1 is amended as follows:

Section 201.21(e)(1)(ii) is hereby amended to read as follows:

(ii) *Additional price limit for sugar.* In addition, in the case of sugar, the purchase price shall not exceed the world price as derived from the daily market quotation on New York Sugar Exchange No. 8 Contract, "spot", FOB and stowed, adjusted for differences in quality, bagging, cost of transportation to destination, and other appropriate considerations.

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

D. A. FITZGERALD,
Deputy Director for Operations.

APRIL 13, 1961.

[F.R. Doc. 61–3577; Filed, Apr. 19, 1961; 8:49 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER D—MULTIFAMILY AND GROUP HOUSING INSURANCE

PART 232—MULTIFAMILY HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIFAMILY HOUSING

PART 241—COOPERATIVE HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS FOR PROJECT MORTGAGE

Eligibility of Property

The following amendments have been made to this chapter:

1. In part 232—Multifamily Housing Insurance; Eligibility Requirements of Mortgage Covering Multifamily Housing; Section 232.22 paragraph (a) is amended to read as follows:

§ 232.22 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) In areas designated by the Commissioner:

(i) On the interest of the lessee under a lease for not less than ninety-nine years which is renewable; or

(ii) Under a lease having a period of not less than seventy-five years to run from the date the mortgage is executed; or

(iii) Under a lease executed by a governmental agency, an Indian or an Indian tribe for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than fifty years from the date the mortgage is executed.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

2. In Part 241—Cooperative Housing Insurance; Eligibility Requirements for Project Mortgage: Section 241.40 paragraph (a) is amended to read as follows:

§ 241.40 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) In areas designated by the Commissioner:

(i) On the interest of the lessee under a lease for not less than ninety-nine years which is renewable; or

(ii) Under a lease having a period of not less than seventy-five years to run from the date the mortgage is executed; or

(iii) Under a lease executed by a government agency, an Indian or an Indian tribe for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than fifty years from the date the mortgage is executed.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e)

Issued at Washington, D.C., April 17, 1961.

NEAL J. HARDY,
Federal Housing Commissioner.

[F.R. Doc. 61-3560; Filed, Apr. 19, 1961; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Fort Caroline National Memorial, Florida; Fishing and Restricted Area

On page 1406 of the FEDERAL REGISTER of February 17, 1961, there was published a notice and text of a proposed amendment to add a new section to Title 36, CFR 7. The purpose of this amendment is to add to Part 7 a new section that will control fishing and the closing of a certain area of the Park to the public.

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 and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

JOHN R. DE WEESE,
Superintendent,
Fort Caroline National Memorial.

A new § 7.61 is added to Part 7, to read as follows:

§ 7.61 Fort Caroline National Memorial.

(a) *Fishing.* Fishing is prohibited within the Memorial.

(b) *Restricted area.* The slopes on the north and east sides of the area known as St. Johns Bluff within the Memorial are closed to public entry at all times, except when authorized in writing by the Superintendent.

(60 Stat. 238; 16 U.S.C. 1003; 39 Stat. 535; 16 U.S.C. 3)

[F.R. Doc. 61-3576; Filed, Apr. 19, 1961; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 1—Federal Procurement Regulations

NONDISCRIMINATION IN EMPLOYMENT; GOVERNMENT CONTRACTS

Interim Exemptions

CROSS REFERENCE: In connection with inclusion of nondiscrimination in employment provisions in Government contracts (see Subparts 1-7.1, 1-16.1, and 1-16.4), attention is called to General Services Administration General Regulation No. 25, Supplement No. 1, April 18, 1961 (F.R. Document 61-3636), appearing in the Notices section, *infra.*

Title 44—PUBLIC PROPERTY AND WORKS

Chapter I—General Services Administration

NONDISCRIMINATION IN EMPLOYMENT; GOVERNMENT CONTRACTS

Interim Exemptions

CROSS REFERENCE: In connection with inclusion of nondiscrimination in employment provisions in Government contracts (see Parts 55, 60, 99, 101, and 102), attention is called to General Services Administration General Regulation No. 25, Supplement No. 1, April 18, 1961 (F.R. Document 61-3636), appearing in the Notices section, *infra.*

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

North Dakota

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

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

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Sport fishing on the Arrowwood National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,270 acres or 39 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: May 6, 1961, through September 15, 1961; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each

may be used by each fisherman. Artificial lures are considered as single hooks.

2. The use of boats, without motors, is permitted.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to September 16, 1961.

LAKE ILO NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Ilo National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to fishing. This open area, comprising 400 acres or 45 percent of the total water area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: May 6, 1961, through September 15, 1961; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks.

2. The use of boats, with motors not to exceed 7½ h.p., is permitted.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to September 16, 1961.

LONG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Long Lake National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,800 acres or 13 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: May 6, 1961 through September 15, 1961; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks.

2. The use of boats, with motors not to exceed 7½ h.p., is permitted.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to September 16, 1961.

LOWER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Lower Souris National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 880 acres or 8 percent of the total water area of the refuge, are delineated on a map and described in a leaflet available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: Daylight hours only from May 6, 1961, through December 31, 1961, in all fishing areas (Numbers I through IX) south of the Westhope-Landa Road; May 6, 1961, through September 15, 1961, in all fishing areas (Numbers X and XI) north of the Westhope-Landa Road.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks.

2. Boats. The use of boats is not permitted in Fishing Areas I, II, IV, V, VII, VIII, and IX. The use of boats, without motors, is permitted in Areas III and VI. The use of boats, with motors, not to exceed 7½ h.p., are permitted in Areas X and XI.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to January 1, 1962.

TEWAUKON NATIONAL WILDLIFE REFUGE

Sport fishing on the Tewaukon National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,220 acres or 80 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: May 6, 1961, through December 31, 1961.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to January 1, 1962.

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 3,970 acres or 26 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: May 6, 1961, through September 15, 1961; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18 inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks.

2. The use of minnows or any other fish, or part thereof, for bait is pro-

hibited in Fishing Areas I, II, III, and VI, which lie north of the Lake Darling Dam. Minnows may be used in Areas IV, V, and VII, which are south of the Dam.

3. The use of boats, with motors not to exceed 7½ h.p., is permitted in Fishing Areas I, II, and III.

(e) Other provisions:

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

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

3. The provisions of this special regulation are effective to September 16, 1961.

R. W. BURWELL,
Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 14, 1961.

[F.R. Doc. 61-3551; Filed, Apr. 19, 1961; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED APRICOTS

U.S. Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering amendments to the United States Standards for Grades of Canned Apricots (§§ 52.2641–52.2657) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627). The amendments as hereinafter set forth provide for slightly lower recommended drained weights for certain can sizes and styles; changing the requirements for compliance of a lot with drained weight recommendations; and including a fill weight procedure as an alternate method for determining fill of container with respect to fruit ingredient.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendments should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than 45 days after publication hereof in the FEDERAL REGISTER.

The proposed amendments are:

1. Change § 52.2641 to read as follows:

§ 52.2641 Product description.

(a) *Canned apricots.* "Canned apricots" means "canned apricots" as such product is defined in the standard of identity for canned apricots (21 CFR 27.10 and 27.14) issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise, the terms "canned apricots" include "canned apricots," "canned spiced apricots," and "canned artificially sweetened apricots" as defined in the aforesaid standards of identity, and canned "solid-pack" apricots.

(b) *Canned "solid-pack" apricots.* For the purposes of the standards in this subpart, canned apricots when referred to as "canned 'solid-pack' apricots" or "solid-pack apricots" means prepared apricots packed without a liquid packing medium, with or without a dry nutritive sweetening ingredient added, and sufficiently processed by heat to assure preservation of the product in hermetically sealed containers. "Solid-pack" apricots to which a sweetening ingredient has not been added are considered "unsweetened;" "Solid-pack" apricots to which a dry nutritive sweetening ingredient has been added are considered "sweetened."

2. Change §§ 52.2645, 52.2646, 52.2647, 52.2648, in their entirety, and the center heading preceding § 52.2645, to read as follows:

LIQUID MEDIA, FILL OF CONTAINER, DRAINED WEIGHTS, AND FILL WEIGHTS

§ 52.2645 Liquid media and Brix measurements for canned apricots.

"Cut-out" requirements for liquid media in canned apricots are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. The "cut-out" Brix measurement, as applicable, for the respective designations is as follows:

Designations	*Brix measurement*
"Extra heavy sirup" or "Extra heavy apricot juice sirup."	25° or more but not more than 40°.
"Heavy sirup" or "Heavy apricot juice sirup"	21° or more but less than 25°.
"Light sirup" or "Light apricot juice sirup"	16° or more but less than 21°.
"Slightly sweetened water" or "Slightly sweetened apricot juice."	Less than 16°.
"In water"	Packed in water.
"In apricot juice"	Packed in apricot juice.
"Artificially sweetened"	Water artificially sweetened with saccharin, sodium saccharin, calcium cyclamate, or any combination of two or more of these, and may be thickened with pectin.

§ 52.2646 Fill of container for canned apricots.

The standard of fill of container for canned apricots is the maximum quantity of the apricot units which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient. Canned apricots that do not meet this requirement are "Below Standard in Fill."

§ 52.2647 Recommended fill of container for canned "solid-pack" apricots.

The recommended fill of container for canned "solid-pack" apricots is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of "solid-pack" apricots be as full of apricots as practicable without impairment of quality and that the product (including liquid, if any) occupy not less than 90 percent of the volume of the container.

§ 52.2648 Recommended drained weights for canned apricots.

(a) *General.* (1) The minimum drained weight recommendations for the various applicable styles in Table I of this subpart are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for ascertaining drained weight.* The drained weight of canned apricots and canned "solid-pack" apricots is determined by emptying the contents of the container, turning the pit cavities down in halves, upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937-inch ±3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes. The drained weight is the weight of the sieve and apricots less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of No. 3 size cans (404 x 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of the No. 3 size cans.

(c) *Compliance with recommended minimum drained weights.* A lot of canned apricots and canned unsweetened "solid-pack" apricots is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended average drained weight (designated as "Avg." in Table I of this subpart); and

(2) The number of sample units which fail to meet the recommended minimum drained weight for individuals (designated as "Indv." in Table I of this subpart) does not exceed the applicable acceptance number specified in the single sampling plan contained in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

TABLE I—RECOMMENDED DRAINED WEIGHTS FOR CANNED APRICOTS

Container size (metal, unless otherwise stated)	Extra heavy and heavy syrups					
	Unpeeled or peeled halves slices, mixed pieces of irregular sizes and shapes		Whole unpeeled		Whole peeled	
	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]
	Ounces	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
8 Z tall	4.2	4.8	3.8	4.5	3.8	4.5
8 oz. glass	4.2	4.8	3.8	4.5	3.8	4.5
No. 1 tall	8.5	9.3	7.9	8.8	7.9	8.8
No. 303	8.7	9.5	8.0	8.9	8.0	8.9
No. 303 glass	8.7	9.5	8.0	8.9	8.0	8.9
No. 2	10.6	11.5	9.7	10.7	9.8	10.8
No. 2½	15.5	16.7	14.3	15.6	14.4	15.7
No. 2½ glass	15.2	16.3	13.8	15.1	13.9	15.2
No. 10	59.7	62.0	57.5	60.0	57.9	60.4
	In any other liquid medium					
8 Z tall	4.3	4.9	3.9	4.6	3.9	4.6
8 oz. glass	4.3	4.9	3.9	4.6	3.9	4.6
No. 1 tall	8.7	9.5	8.1	9.0	8.1	9.0
No. 303	8.9	9.7	8.2	9.1	8.2	9.1
No. 303 glass	8.9	9.7	8.2	9.1	8.2	9.1
No. 2	10.9	11.8	10.0	11.0	10.1	11.1
No. 2½	16.0	17.2	14.7	16.0	14.8	16.1
No. 2½ glass	15.7	16.8	14.2	15.5	14.3	15.6
No. 10	61.7	64.0	59.0	61.5	59.5	62.0

[1] "Indv." means the minimum drained weight for individual containers.
[2] "Avg." means the minimum average drained weights from all the containers in the sample.

TABLE II—RECOMMENDED FILL WEIGHT VALUES FOR CANNED APRICOTS

Container size (metal unless otherwise stated)	Unpeeled or peeled halves—Fill weight values						
	$\bar{X}'_{min}$	$LWL_{\bar{X}}$	$LRL_{\bar{X}}$	LWL	LRL	$\bar{R}'$	R_{max}
	Ounces	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
8 Z tall	5.3	4.9	4.6	4.3	3.8	1.2	2.5
8 oz. glass	5.3	4.9	4.6	4.3	3.8	1.2	2.5
No. 1 tall	10.2	9.7	9.4	9.0	8.4	1.4	3.0
No. 303	10.4	9.9	9.6	9.2	8.6	1.4	3.0
No. 303 glass	10.4	9.9	9.6	9.2	8.6	1.4	3.0
No. 2	12.6	11.9	11.6	11.2	10.5	1.6	3.4
No. 2½	18.4	17.6	17.2	16.6	15.7	2.1	4.4
No. 2½ glass	18.0	17.2	16.8	16.2	15.3	2.1	4.4
No. 10	69.5	68.2	67.5	66.5	65.0	3.5	7.4
	Whole unpeeled—Fill weight values						
8 Z tall	4.8	4.3	4.1	3.7	3.1	1.3	2.7
8 oz. glass	4.8	4.3	4.1	3.7	3.1	1.3	2.7
No. 1 tall	9.4	8.8	8.5	8.0	7.3	1.6	3.4
No. 303	9.6	9.0	8.7	8.2	7.5	1.6	3.4
No. 303 glass	9.6	9.0	8.7	8.2	7.5	1.6	3.4
No. 2	11.6	10.9	10.5	10.0	9.2	1.9	4.0
No. 2½	17.0	16.1	15.7	15.0	14.0	2.3	4.9
No. 2½ glass	16.5	15.6	15.2	14.5	13.5	2.3	4.9
No. 10	65.0	63.0	62.7	61.6	59.9	4.0	8.5
	Whole peeled—Fill weight values						
8 Z tall	5.0	4.5	4.3	3.9	3.3	1.3	2.7
8 oz. glass	5.0	4.5	4.3	3.9	3.3	1.3	2.7
No. 1 tall	9.7	9.1	8.7	8.3	7.6	1.6	3.4
No. 303	9.9	9.3	8.9	8.5	7.8	1.6	3.4
No. 303 glass	9.9	9.3	8.9	8.5	7.8	1.6	3.4
No. 2	12.0	11.3	11.0	10.4	9.6	1.9	4.0
No. 2½	17.5	16.6	16.2	15.5	14.5	2.3	4.9
No. 2½ glass	17.0	16.1	15.7	15.0	14.0	2.3	4.9
No. 10	66.5	64.0	63.2	62.1	60.4	4.0	8.5

3. Delete § 52.2649 in its entirety and substitute new text as follows:

§ 52.2649 Recommended fill weights for canned apricots.

(a) *General.* The minimum fill weight recommendations for the various applicable styles in Table II of this subpart are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purposes of these grades.

(b) *Method for ascertaining fill weight.* The fill weight of canned apricots for the applicable styles is determined in accordance with the U.S. Department of Agriculture's "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

(c) *Definitions of terms and symbols.* "Subgroup" means a group of sample units representing a portion of a sample.

$\bar{X}'_{min}$ means the minimum lot average fill weight.

$LWL_{\bar{X}}$ means the lower warning limit for subgroup averages.

$LRL_{\bar{X}}$ means the lower reject limit for subgroup averages.

LWL means the lower warning limit for individual fill weight measurements.

LRL means the lower reject limit for individual fill weight measurements.

$\bar{R}'$ means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

(d) *Subgroup size.* The subgroup size for the determination of fill weights shall be 5 sample units.

(e) *Compliance with recommended fill weights.* Compliance with the recommended fill weights for canned apricots shall be in accordance with the acceptance criteria specified in the United States Department of Agriculture's "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

Dated: April 13, 1961.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 61-3494; Filed, Apr. 19, 1961; 8:45 a.m.]

[7 CFR Part 52]

CANNED CLINGSTONE PEACHES

U.S. Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering amendments to the United States Standards for Grades of Canned Clingstone Peaches §§ 52.2561–52.2577) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627). The amendments as hereinafter set forth provide for slightly higher recommended drained weights for certain can sizes and styles; changing the requirements for compliance of a lot with drained weight recommendations; and including a fill weight procedure as an alternate method for determining fill of container with respect to fruit ingredient.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendments should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

25, D.C., not later than 45 days after the publication hereof in the FEDERAL REGISTER.

The proposed amendments are:

1. Change § 52.2561 to read as follows:

§ 52.2561 Product description.

(a) *Canned clingstone peaches.* "Canned clingstone peaches" means "canned yellow clingstone peaches" or "canned yellow cling peaches" as such product is defined in the standard of identity for canned peaches (21 CFR 27.2 and 27.6) issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise the terms "canned peaches" or "canned clingstone peaches" include "canned yellow clingstone peaches", "canned spiced yellow clingstone peaches" and "canned artificially sweetened yellow clingstone peaches" as defined in the aforesaid standards of identity, and canned "solid-pack" clingstone peaches.

(b) *Canned "solid-pack" clingstone peaches.* For the purposes of the standards in this subpart, canned peaches when referred to as "canned 'solid-pack' clingstone peaches" or "solid-pack peaches" means prepared peaches of the yellow clingstone varietal group packed without a liquid packing medium, with or without a dry nutritive sweetening ingredient added, and sufficiently processed by heat to assure preservation of the product in heremetically-sealed containers. "Solid-pack" peaches to which a sweetening ingredient has not been added are considered "unsweetened"; "Solid-pack" peaches to which a dry nutritive sweetening ingredient has been added are considered "sweetened."

2. Change §§ 52.2565, 52.2566, 52.2567, and 52.2568 in their entirety, and the center heading preceding § 52.2565, to read as follows:

LIQUID MEDIA, FILL OF CONTAINER, DRAINED WEIGHTS, AND FILL WEIGHTS

§ 52.2565 Liquid media and Brix measurements for canned clingstone peaches.

"Cut-out" requirements for liquid media in canned clingstone peaches are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. The "cut-out" Brix measurements, as applicable, for the respective designations are as follows:

Designations	*Brix measurement*
"Extra heavy sirup" or "Extra heavy peach juice sirup"	24° or more but not more than 35°.
"Heavy sirup" or "Heavy peach juice sirup"	19° or more but less than 24°.
"Light sirup" or "Light peach juice sirup"	14° or more but less than 19°.
"Slightly sweetened water" or "Slightly sweetened peach juice."	Less than 14°.
"In water"	Packed in water.
"In peach juice"	Packed in peach juice.
"Artificially sweetened"	Water artificially sweetened with saccharin, sodium saccharin, calcium cyclamate, sodium cyclamate, or any combination of two or more of these, and may be thickened with pectin.

§ 52.2566 Fill of container for canned clingstone peaches.

The standard of fill of container for canned clingstone peaches is the maximum quantity of the peach units which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient. Canned clingstone peaches that do not meet this requirement are "Below Standard in Fill."

§ 52.2567 Recommended fill of container for canned "solid-pack" clingstone peaches.

The recommended fill of container for canned "solid-pack" clingstone peaches is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of "solid-pack" clingstone peaches be as full of peaches as practicable without impairment of quality and that the product (including liquid, if any) occupy not less than 90 percent of the volume of the container.

§ 52.2568 Recommended drained weights for canned clingstone peaches.

(a) *General.* (1) The minimum drained weight recommendations for the various applicable styles in Table I of this subpart are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for ascertaining drained weight.* The drained weight of canned clingstone peaches and canned "solid-pack" clingstone peaches is determined by emptying the contents of the container, turning the pit cavities down in halves, upon a United States Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937-inch ±3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes. The drained weight is the weight of the sieve and peaches less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of No. 3 size cans (404 x 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of the No. 3 size can.

(c) *Compliance with recommended drained weights.* A lot of canned clingstone peaches and canned unsweetened "solid-pack" clingstone peaches is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended average drained weight (designated as "Avg." in Table I of this subpart); and

(2) The number of sample units which fail to meet the recommended minimum drained weight for individuals (designated as "Indv." in Table I of this subpart) does not exceed the applicable acceptance number specified in the single sampling plan contained in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED CLINGSTONE PEACHES

Container designations (metal, unless otherwise stated)	Halves						Mixed pieces of irregular sizes and shapes					
	In extra heavy syrup		In heavy syrup		In any other liquid medium		In extra heavy syrup		In heavy syrup		In any other liquid medium	
	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]
	Oz.	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*
8 Z tall	4.3	5.0	4.5	5.2	4.6	5.3	4.3	5.0	4.5	5.2	4.6	5.3
8 oz. glass	4.3	5.0	4.5	5.2	4.6	5.3	4.3	5.0	4.5	5.2	4.6	5.3
No. 1 tall	8.9	9.8	9.1	10.0	9.3	10.2	8.9	9.8	9.1	10.0	9.3	10.2
No. 303	9.1	10.0	9.3	10.2	9.5	10.4	9.1	10.0	9.3	10.2	9.5	10.4
No. 303 glass	9.1	10.0	9.3	10.2	9.5	10.4	9.1	10.0	9.3	10.2	9.5	10.4
No. 2	11.0	12.1	11.3	12.4	11.6	12.7	11.0	12.1	11.3	12.4	11.6	12.7
No. 2½ glass	15.7	17.1	16.1	17.5	16.5	17.9	15.7	17.1	16.1	17.5	16.5	17.9
No. 2½							16.2	17.6	16.6	18.0	17.0	18.4
No. 2½, 7 count or more	16.2	17.6	16.6	18.0	17.0	18.4						
No. 2½, 6 count or less	15.6	17.0	16.0	17.4	16.4	17.8						
No. 10							62.0	64.5	64.0	66.0	66.0	68.5
No. 10, 24 count or more	62.0	64.5	64.0	66.5	66.0	68.5						
No. 10, 23 count or less	60.5	63.0	62.5	65.0	64.5	67.0						

[1] "Indv." means the minimum drained weight for individual containers.
[2] "Avg." means the minimum average drained weights from all the containers in the sample.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED CLINGSTONE PEACHES—Con.

Container designations (metal, unless otherwise stated)	Sliced						Diced in any liquid medium	
	In extra heavy syrup		In heavy syrup		In any other liquid medium			
	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]
	Ounces	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
8 Z tall	4.3	4.9	4.5	5.1	4.6	5.2	4.7	5.2
8 oz. glass	4.3	4.9	4.5	5.1	4.6	5.2	4.7	5.2
No. 1 tall	8.9	9.7	9.1	9.9	9.3	10.1	9.3	10.5
No. 303	9.1	9.9	9.3	10.1	9.5	10.3	9.2	10.5
No. 303 glass	9.1	9.9	9.3	10.1	9.5	10.3	9.2	10.5
No. 2	11.1	12.0	11.4	12.3	11.7	12.6	11.2	12.7
No. 2½	16.3	17.4	16.7	17.8	17.1	18.2	17.5	18.5
No. 2½ glass	15.8	16.9	16.2	17.3	16.6	17.7	17.0	18.0
No. 10	62.5	64.5	64.5	66.5	66.5	68.5	68.2	70.0

	"Heavy Pack"—Any style in any liquid medium		"Solid Pack"—All applicable styles (unsweetened only)	
	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]
	Ounces	*Ounces*	*Ounces*	*Ounces*
No. 2½	18.6	20.0	24.1	25.5
No. 10	73.5	76.0	89.5	92.0

[1] "Indv." means the minimum drained weight for individual containers.
[2] "Avg." means the minimum average drained weights from all the containers in the sample.

3. Delete § 52.2569 in its entirety and substitute new text as follows:

§ 52.2569 Recomended fill weights for canned clingstone peaches.

(a) *General.* The minimum fill weight recommendations for the various applicable styles in Table II of this subpart are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purpose of these grades.

(b) *Method for ascertaining fill weight.* The fill weight of canned clingstone peaches for the applicable styles is determined in accordance with the United States Department of Agriculture "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

(c) *Definitions of terms and symbols.* "Subgroup" means a group of sample units representing a portion of a sample.

$\bar{X}'_{min}$ means the minimum lot average fill weight.

$LWL_{\bar{x}}$ means the lower warning limit for subgroup averages.

$LRL_{\bar{x}}$ means the lower reject limit for subgroup averages.

LWL means the lower warning limit for individual fill weight measurements.

LRL means lower reject limit for individual fill weight measurements.

$\bar{R}'$ means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

(d) *Subgroup size.* The subgroup size for the determination of fill weights shall be 5 sample units.

(e) *Compliance with recommended fill weights.* Compliance with the recommended fill weights for canned clingstone peaches shall be in accordance with the acceptance criteria specified in the United States Department of Agriculture "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

TABLE II—RECOMMENDED FILL WEIGHT VALUES FOR CANNED CLINGSTONE PEACHES

Container designation (metal, unless otherwise stated)	Halves—Fill weight values						
	$\bar{X}'_{min}$	$LWL_{\bar{x}}$	$LRL_{\bar{x}}$	LWL	LRL	$\bar{R}'$	R_{max}
	Ounces	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
8 Z tall	5.4	4.9	4.7	4.4	3.9	1.2	2.5
8 oz. glass	5.4	4.9	4.7	4.4	3.9	1.2	2.5
No. 1 tall	10.4	9.8	9.4	9.0	8.3	1.6	3.4
No. 303 glass	10.6	10.0	9.6	9.2	8.5	1.6	3.4
No. 303	10.6	10.0	9.6	9.2	8.5	1.6	3.4
No. 2	12.8	12.1	11.7	11.2	10.4	1.9	3.9
No. 2½ glass	18.2	17.3	16.9	16.2	15.2	2.3	4.9
No. 2½, 7 count or more	18.7	17.8	17.4	16.7	15.7	2.3	4.9
No. 2½, 6 count or less	18.0	17.1	16.7	16.0	15.0	2.3	4.9
No. 10, 24 count or more	70.5	69.0	68.2	67.1	65.4	4.0	8.4
No. 10, 23 count or less	69.0	67.5	66.7	65.6	63.9	4.0	8.4
	Sliced—Fill weight values						
8 Z tall	5.4	5.0	4.8	4.4	4.0	1.0	2.1
8 oz. glass	5.4	5.0	4.8	4.4	4.0	1.0	2.1
No. 1 tall	10.5	9.9	9.5	9.2	8.5	1.5	3.2
No. 303 glass	10.7	10.1	9.8	9.4	8.7	1.5	3.2
No. 303	10.7	10.1	9.8	9.4	8.7	1.5	3.2
No. 2	13.0	12.3	12.0	11.5	10.8	1.7	3.7
No. 2½	19.0	18.2	17.8	17.2	16.3	2.1	4.4
No. 2½ glass	18.5	17.7	17.3	16.7	15.8	2.1	4.4
No. 10	72.0	70.9	70.3	69.4	68.1	3.0	6.3

Dated: April 13, 1961.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 61-3495; Filed, Apr. 19, 1961; 8:45 a.m.]

[7 CFR Part 52]

CANNED FREESTONE PEACHES

U.S. Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering amendments to the United States Standards for Grades of Canned Freestone Peaches (§§ 52.2601–52.2615) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627). The amendments as hereinafter set forth provide for including drained weights and fill weights in the grade standards for the determination of fill of container with respect to fruit ingredient.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendments should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 45 days after publication hereof in the FEDERAL REGISTER.

The proposed amendments are:

1. Change § 52.2601 to read as follows:

§ 52.2601 Product description.

(a) *Canned freestone peaches.* "Canned freestone peaches" means "canned yellow freestone peaches" or "canned yellow free peaches" as such product is defined in the standard of identity for canned peaches (21 CFR 27.2 and 27.6) issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise, the terms "canned peaches" or "canned freestone peaches" include "canned yellow freestone peaches", "canned spiced yellow freestone peaches" and "canned artificially sweetened yellow freestone peaches" as defined in the aforesaid standards of identity, and canned "solid-pack" freestone peaches.

(b) *Canned "solid-pack" freestone peaches.* For the purposes of the standards in this subpart, canned peaches when referred to as "canned 'solid-pack' freestone peaches" or "solid-pack freestone peaches" means prepared peaches of the yellow freestone varietal group

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

packed without a liquid packing medium with or without a dry nutritive sweetening ingredient added, and sufficiently processed by heat to assure preservation of the product in hermetically-sealed containers. "Solid-pack" peaches to which a sweetening ingredient has not been added are considered "unsweetened"; "solid-pack" peaches to which a dry nutritive sweetening ingredient has been added are considered "sweetened".

2. Change §§ 52.2605, 52.2606, 52.2607, in their entirety, and the center heading preceding § 52.2605, to read as follows:

LIQUID MEDIA, FILL OF CONTAINER, DRAINED WEIGHTS, AND FILL WEIGHTS

§ 52.2605 Liquid media and Brix measurements for canned freestone peaches.

"Cut-out" requirements for liquid media in canned freestone peaches are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. The "cut-out" Brix measurements, as applicable, for the respective designations are as follows:

Designations	*Brix measurement*
"Extra heavy sirup" or "Extra heavy peach juice sirup"	24° or more but not more than 35°.
"Heavy sirup" or "Heavy peach juice sirup"	19° or more but less than 24°.
"Light sirup" or "Light peach juice sirup"	14° or more but less than 19°.
"Slightly sweetened water" or "Slightly sweetened peach juice."	Less than 14°.
"In water"	Packed in water.
"In peach juice"	Packed in peach juice.
"Artificially sweetened"	Water artificially sweetened with saccharin, sodium saccharin, calcium cyclamate, sodium cyclamate, or any combination of two or more of these, and may be thickened with pectin.

§ 52.2606 Fill of container for canned freestone peaches.

The standard of fill of container for canned freestone peaches is the maximum quantity of the peach units which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient. Canned freestone peaches that do not meet this requirement are "Below Standard in Fill".

§ 52.2607 Recommended fill of container for canned "solid-pack" freestone peaches.

The recommended fill of container for canned "solid-pack" freestone peaches is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of "solid-pack" freestone peaches be as full of peaches as practicable without impairment of quality and that the product (including liquid, if any) occupy not less than 90 percent of the volume of the container.

(3) Add new sections immediately following § 52.2607 to read as follows:

§ 52.2607a Recommended drained weights for canned freestone peaches.

(a) *General.* (1) The minimum drained weight recommendations for the various applicable styles in Table I of this subpart are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for ascertaining drained weight.* The drained weight of canned freestone peaches and canned "solid-pack" freestone peaches is determined by emptying the contents of the container, turning the pit cavities down in halves, upon a United States Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937-inch±3%, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes. The drained weight is the weight of the sieve and peaches less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of No. 3 size cans (404 x 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of the No. 3 size can.

(c) *Compliance with recommended drained weights.* A lot of canned freestone peaches and canned unsweetened "solid-pack" freestone peaches is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended average drained weight (designated as "Avg." in Table I of this subpart); and

(2) The number of sample units which fail to meet the recommended minimum drained weight for individuals (designated as "Indv." in Table I of this subpart) does not exceed the applicable acceptance number specified in the single sampling plan contained in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED FREESTONE PEACHES

Container size (metal, unless otherwise stated)	Halves				Quarters, mixed pieces of irregular sizes and shapes				Sliced			
	In extra heavy syrup		In any other liquid medium		In extra heavy syrup		In any other liquid medium		In extra heavy syrup		In any other liquid medium	
	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]	Indv.[1]	Avg.[2]
	Oz.	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*	*Oz.*
8 Z tall	4.1	4.8	4.3	5.0	4.1	4.8	4.3	5.0	4.1	4.7	4.3	4.9
8 oz. glass	4.1	4.8	4.3	5.0	4.1	4.8	4.3	5.0	4.1	4.7	4.3	4.9
No. 1 tall	8.4	9.3	8.7	9.6	8.4	9.3	8.7	9.6	8.4	9.2	8.7	9.5
No. 303	8.6	9.5	8.9	9.8	8.6	9.5	8.9	9.8	8.6	9.4	8.9	9.7
No. 303 glass	8.6	9.5	8.9	9.8	8.6	9.5	8.9	9.8	8.6	9.4	8.9	9.7
No. 2	10.4	11.5	10.8	11.9	10.4	11.5	10.8	11.9	10.4	11.3	10.8	11.7
No. 2½ glass	14.7	16.1	15.2	16.6	14.7	16.1	15.2	16.6	14.7	15.8	15.2	16.3
No. 2½	15.2	16.6	15.7	17.1	15.2	16.6	15.7	17.1	15.2	16.3	15.7	16.8
No. 2½, 7 count or more	14.8	16.2	15.3	16.7								
No. 2½, 6 count or less					58.5	61.0	60.0	62.5	58.0	60.0	59.0	61.0
No. 10	58.0	61.0	60.0	62.5								
No. 10, 24 count or more	57.0	60.0	59.0	61.5								
No. 10, 23 count or less												

[1] "Indv." means the minimum drained weight for individual containers.
[2] "Avg." means the minimum average drained weights from all the containers in the sample.

§ 52.2607b Recommended fill weights for canned freestone peaches.

(a) *General.* The minimum fill weight recommendations for the various applicable styles in Table II of this subpart are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purpose of these grades.

(b) *Method for ascertaining fill weight.* The fill weight of canned freestone peaches for the applicable styles is determined in accordance with the United States Department of Agriculture "Variables Control Chart Plan" and adaptations thereto as applicable to processed fruits and vegetables and related products.

(c) *Definitions of terms and symbols.* "Subgroup" means a group of sample units representing a portion of a sample.

$\overline{X}'_{min}$ means the minimum lot average fill weight.

$LWL_{\overline{X}}$ means the lower warning limit for subgroup averages.

$LRL_{\overline{X}}$ means the lower reject limit for subgroup averages.

LWL means the lower warning limit for individual fill weight measurements.

LRL means lower reject limit for individual fill weight measurements.

$\overline{R}'$ means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

(d) *Subgroup size.* The subgroup size for the determination of fill weights shall be 5 sample units.

(e) *Compliance with recommended fill weights.* Compliance with the recommended fill weights for canned freestone peaches shall be in accordance with the acceptance criteria specified in the United States Department of Agriculture "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

TABLE II—RECOMMENDED FILL WEIGHT VALUES FOR CANNED FREESTONE PEACHES

Container size (metal, unless otherwise stated)	Halves—Fill weight values						
	$\overline{X}'_{min}$	$LWL_{\overline{X}}$	$LRL_{\overline{X}}$	LWL	LRL	$\overline{R}'$	R_{max}
	Ounces	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
8 Z	5.6	5.0	4.7	4.6	4.1	1.5	3.2
8 oz. glass	5.6	5.0	4.7	4.6	4.1	1.5	3.2
No. 1 tall	10.8	10.1	9.8	9.3	8.6	1.7	3.6
No. 303	11.0	10.3	10.0	9.5	8.7	1.7	3.6
No. 303 glass	11.0	10.3	10.0	9.5	8.7	1.7	3.6
No. 2	13.3	12.5	12.1	11.5	10.6	2.1	4.4
No. 2½ glass	18.9	17.9	17.4	16.7	15.6	2.6	5.5
No. 2½, 7 count or more	19.4	18.4	17.9	17.2	16.1	2.6	5.5
No. 2½, 6 count or less	19.0	18.0	17.5	16.8	15.7	2.6	5.5
No. 10, 24 count or more	73.0	71.3	70.4	69.2	67.3	4.4	8.9
No. 10, 23 count or less	72.0	70.3	69.4	68.2	66.3	4.4	8.9
	Sliced—Fill weight values						
8 Z tall	5.6	5.1	4.8	4.7	4.2	1.4	3.0
8 oz. glass	5.6	5.1	4.8	4.7	4.2	1.4	3.0
No. 1 tall	10.9	10.1	10.0	9.6	8.7	1.6	3.4
No. 303	11.1	10.5	10.2	9.7	9.0	1.6	3.4
No. 303 glass	11.1	10.5	10.2	9.7	9.0	1.6	3.4
No. 2	13.4	12.7	12.3	11.7	10.8	2.0	4.2
No. 2½	19.6	18.7	18.3	17.4	16.6	2.3	4.9
No. 2½ glass	19.1	18.2	17.8	16.9	16.1	2.3	4.9
No. 10	74.0	72.7	72.0	71.0	69.5	3.5	7.4

Dated: April 13, 1961.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 61-3496; Filed, Apr. 19, 1961; 8:45 a.m.]

[7 CFR Parts 960, 975]

[Docket Nos. AO-325, AO-179-A20]

MILK IN GREATER YOUNGSTOWN-WARREN AND NORTHEASTERN OHIO MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Marketing Agreements and Orders

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

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Youngstown, Ohio, on October 4–6, 1960, pursuant to notice thereof which was issued September 14, 1960 (25 F.R. 8952).

The material issues of record relate to:

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

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

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

(a) The scope of regulation (including whether the city of Ashtabula should be deleted from the Northeastern Ohio marketing area);

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

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

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

Milk produced on farms located in Pennsylvania is regularly shipped to plants located in Ohio for processing and for distribution within the specified marketing area; and milk produced on farms located in Ohio is regularly shipped to plants located in Pennsylvania for processing, some of which is returned to Ohio for distribution within the proposed marketing area. Packaged fluid milk products from plants located in Pennsylvania are regularly distributed on routes in the marketing area. Fluid milk is regularly moved from receiving plants in Pennsylvania and Indiana to distributing plants located in Ohio for distribution in the marketing area.

2. *The need for an order.* Marketing conditions in the Greater Youngstown-Warren marketing area are such that the issuance of an order to regulate the handling of milk in the area will tend to effectuate the declared policy of the Act.

The majority of dairy farmers who regularly deliver milk to plants which will be regulated by this proposed order are members of the cooperative association proposing the order, Dairymen's Cooperative Sales Association. Most of the plants in the proposed marketing area are engaged primarily in the distribution of packaged fluid milk. For several years this association has maintained a classified price plan for the milk of its members which is sold to plants serving the fluid milk demand of the proposed marketing area. Milk used for certain packaged fluid items is priced at one level while that used for all other purposes is priced at a somewhat lower level.

In recent months, however, some handlers have purchased their milk on a "flat price basis" without regard to its utilization. Since they are generally high utilization handlers, it results in their paying less than the full utilization value of milk.

Grade A milk of another market which is in excess of the fluid demand of that market and which otherwise would be used for manufacturing purposes is available for sale in the Greater Youngstown-Warren market. The value of this surplus milk is no greater than the value of manufacturing grade milk. Youngstown handlers may buy this surplus Grade A milk at a price only slightly in excess of the price of manufacturing grade milk. Under this circumstance, the buyers of flat price milk pay less for Class I milk than do those handlers who buy milk from the proponent cooperative association and are subject to the cooperative's classification and pricing plan. The competitive pressure of this flat price milk has adversely affected the bargaining position of the proponent cooperative. It appears that this competitive pressure may reduce prices for all milk used for fluid purposes to a level below the economic value of such milk when used for fluid purposes and below the level which is contemplated should be returned to producers under the Act.

The issuance of a marketing agreement and order for the Greater Youngstown-Warren marketing area would eliminate the unstable milk marketing conditions now existing in the market and would tend to effectuate the declared policy of the Act. The adoption of a marketwide classified price plan based on the audited utilization of all

handlers would provide a uniform system of minimum prices to handlers for milk purchased from producers and an equitable division among all producers of the proceeds from the sale of their milk and would assure a return to producers in accordance with the standards of the Act.

3. *Order provisions*—(a) *Scope of regulation.* The type of regulation effected by a milk order is essentially a matter of establishing minimum prices to dairy farmers who produce milk for the market. The scope of such regulation may be made specific by providing appropriate definitions of the terms "marketing area", "producer", "handler", "pool plant", "other source milk", and such other definitions as are necessary to describe the incidence of order regulation.

(1) *Marketing area.* The Greater Youngstown-Warren marketing area (hereinafter referred to as the Youngstown area) should include all the territory within the boundaries of Trumbull and Mahoning Counties, Ohio (except Smith Township); and Perry Township in Columbiana County, Ohio.

The marketing area thus defined was proposed by the proponent cooperative association. Certain handlers whose plants would be regulated by the order proposed that the marketing area also include the Ohio counties of Ashtabula, Columbiana, Carroll, Geauga, Lake, and Portage except those parts now included in the marketing area of the Northeastern Ohio or Greater Wheeling Federal order. One handler proposed that the city of Ashtabula be deleted from the Northeastern Ohio marketing area to accommodate its inclusion in the Youngstown marketing area.

The 1960 population of the recommended marketing area is approximately 500,000. Most of the urban areas in the nearby counties proposed by handlers are are already included in the marketing area of either the Northeastern Ohio or Greater Wheeling Federal order.

The sanitary regulations applicable for Grade A milk produced for distribution throughout the recommended marketing area are patterned according to the United States Public Health Ordinance and Code. The regulations are so similar that milk may move from one part of the area for consumption in another part without meeting additional inspection.

Most of the Grade A milk distributed within the recommended marketing area is processed and packaged at plants located therein. One of these plants is regulated by the terms of the order regulating the handling of milk in the Greater Wheeling marketing area. The remaining milk sold in the Youngstown area is processed and packaged at five plants located in Pennsylvania and at Northeastern Ohio Federal order plants located elsewhere in Ohio. Plants located within the area distribute approximately 93 percent of all fluid milk disposed of in Mahoning County and about 90 percent of that disposed of in Trumbull County. Plants in Pennsylvania distribute about 2 and 8 percent, respectively, of the total fluid milk disposed of in Mahoning and Trumbull Counties, and Northeastern Ohio plants distribute 5 and 2 percent, respectively.

The two counties are the main sales area of the Youngstown and Warren handlers. One handler who operates a plant located in Youngstown also operates plants located in Ashtabula and Cleveland. About 65 percent of fluid sales from this handler's Youngstown plant is disposed of in the recommended area, and, not including the plant regulated by the Wheeling order, 90 percent of the fluid sales from the remaining plants located within Mahoning and Trumbull Counties is sold therein.

Ashtabula County should not be included in the Youngstown-Warren marketing area. At the time of the hearing, handlers with plants located within the recommended area, and handlers operating plants in Pennsylvania which will be pooled sold less than 15 percent of the total fluid milk distributed in Ashtabula County. The city of Ashtabula which is the largest population center within Ashtabula County is a part of the Northeastern Ohio marketing area. A handler who operates plants in the cities of Ashtabula and Youngstown was planning on closing the Ashtabula plant and serving its sales area from the Youngstown plant. In this event, however, a large part of the milk sold in Ashtabula City would continue to be distributed from Northeastern Ohio plants.

In addition, inspection regulations of Conneaut, the second largest city in the county, allow only that milk to be distributed in the city which is processed and packaged therein. Therefore, packaged milk cannot move freely from other sections of the market to Conneaut. Under these circumstances it would not be appropriate, at this time, to include Ashtabula County in the marketing area.

Except for Perry township in Columbiana County, the marketing area should not include any part of Carroll, Columbiana, Geauga, Lake and Portage Counties. According to the United States Census of population the population of these five counties in 1950 was 284,538 distributed as follows:

County:	*Population*
Carroll	19,039
Columbiana	98,920
Geauga	26,646
Lake	75,979
Portage	63,954

Most of the urban parts of these counties are part of the Wheeling or Northeastern Ohio marketing areas. These regulated areas, and including that part of Perry township, Columbiana County, which is recommended as part of the Youngstown area contained about 55 percent of the total population of the five counties. The unregulated parts of these five counties are predominantly rural and their exclusion from the Youngstown marketing area will not contribute to market instability.

To summarize, the recommended marketing area forms a practicable area for purposes of regulation in effectuating the declared policy of the Act. It covers most of the sales territory served by the plants which would be fully regulated hereunder. Any larger area could bring under regulation handlers who do not dispose of any fluid milk in the Youngstown-Warren area.

The city of Ashtabula should continue to be a part of the Northeastern Ohio marketing area.

(2) *Producer.* The term "producer" should include dairy farmers who regularly provide Grade A milk to pool plants for fluid consumption in the marketing area. Accordingly, the definition of "producer" should distinguish between those farmers who produce milk in compliance with the sanitary requirements of a fluid market and other dairy farmers whose milk is qualified only for manufacturing purposes. Milk intended for fluid consumption in the proposed area is required to be produced in compliance with specific health standards. In addition to the milk which complies with the Grade A requirements of state or municipal health authorities, that which is approved by government authorities at installations under their supervision also would be considered as satisfying the health approval provision.

The qualification of a farmer as a producer should be established primarily on receipt of his milk at a plant which is substantially supplying the marketing area. (Such plants are hereinafter defined as "pool plants".) "Producer" should also include those dairy farmers whose milk is temporarily diverted from a pool plant to a nonpool plant or to another pool plant. In the case of that milk diverted to a nonpool plant the milk would be deemed to have been received at the plant from which it is diverted.

Diversion will accommodate the most efficient handling of milk which serves as the reserve for the market. However, to obviate the possibility that unlimited diversion would encourage handlers to add producers in excess of those needed to supply the fluid requirements of the market and the necessary reserve, a limit should be placed on the diversion privilege. Therefore, diversion should be limited to 10 days' production during each of the months of August through February. In recognition of the seasonal imbalance of milk production and fluid consumption, no diversion limitation should apply in other months. Should more than 10 days' production of a particular dairy farmer be diverted during any of the months of August through February that dairy farmer should be a producer during the month for that milk delivered directly to a pool plant and that milk diverted to a nonpool plant to the extent of 10 days' production.

(3) *Pool plant.* Generally there are two categories of milk plants functioning in the Greater Youngstown-Warren market. In one category are plants from which packaged fluid milk products are distributed in the marketing area. Such plants will be defined as distributing plants. In the other category are plants at which milk is received from dairy farmers, commingled and shipped to other plants for further processing and distribution. Such plants will be defined as supply plants.

Only plants primarily engaged in the route distribution of fluid milk products

should qualify as pool plants under this definition. These should be further divided into two categories—those having a significant association with the market—and those only incidentally associated with it.

To qualify under the first category a distributing plant should have a total route distribution, both inside and outside the marketing area during the month, in an amount equal to at least 50 percent of its total receipts of Grade A milk from dairy farmers and from other plants. A plant which does not qualify on this basis should be considered primarily a supply plant and its pool status should be judged by the standards applied to supply plants. In addition to disposing of at least half its receipts of Grade A milk on routes, such a plant must dispose of at least 10 percent of its total Class I distribution in the marketing area on routes. Such a plant is sufficiently identified with the market to participate in the marketwide pool under the order on a regular basis.

The other category of distributing plants consists of those plants which distribute only a token share of their Class I sales in the marketing area on routes. The primary sales territory of such handlers is in another market which may be subject to substantially different marketing conditions. Such a plant should be afforded the opportunity of becoming a nonpool plant if the operator of the plant notifies the market administrator of such intention at the time of filing the monthly reports of receipts and utilization for such plant. Under such circumstances the plant would be assessed the compensatory payment discussed below on its Class I disposition within the marketing area.

As a safeguard to the integrity of the regulation it should be provided further that a plant having less than 10 percent of its Class I route distribution in the marketing area must dispose of at least 60 percent of its receipts of Grade A milk as Class I on routes both inside and outside the marketing area. Class I utilization by distributing plants which dispose of at least 10 percent of their Class I milk in the marketing area on routes will average at least 60 percent of the receipts of producer milk in the pool. This further requirement thus will prevent the dissipation of returns for Class I sales to farmers supplying plants which have a lower utilization than the market average and which have little actual association with the market.

There are at least three plants from which routes are operated in the marketing area that receive no milk from producers. Their total supply of milk is received from supply plants. At all other distributing plants operating in the market, milk is received directly from producers. However, at some of these latter distributing plants the volume of milk from producers is insufficient to meet fluid demands. Operators of some of these plants purchase supplemental milk from supply plants on a regular and continuing basis.

Supply plants from which a major portion of their receipts of approved Grade A milk from dairy farmers is regularly shipped to pooled distributing plants are clearly associated with the market and their producers should participate in the pool. Supply plants from which minor or incidental shipments of milk are made to pool distributing plants are not primarily associated with the Greater Youngstown-Warren market and should not participate in the pool. The status of milk received from supply plants not primarily associated with the market will be covered subsequently under the heading, "provisions with respect to unpriced milk."

It is concluded that a supply plant should be considered as a regular source of supply for the market if shipments to pool distributing plants are equal to not less than 50 percent of receipts from dairy farmers who meet the inspection requirements described in connection with producers during the month. However, supply plants which qualify as pool plants during each of the months of September through January should be allowed to maintain pool status, if the operator so desires, during the following months of February through August even though in such months he may ship to the market less than the minimum percentage. This will accommodate the economical handling of seasonal reserve supply which normally would not be needed by distributing plants during spring and summer months.

Certain plants which otherwise would qualify as pool plants by meeting the appropriate percentages should be exempt from the pooling provisions of the order. Such exemptions would cover plants which are subject to the provisions of another Federal order and dispose of a larger volume of milk in the other Federal order market than in the Greater Youngstown-Warren market.

(4) *Handler.* "Handler" is a term designed to cover all persons operating plants or otherwise having responsibility with respect to the marketing of milk in the area. It would include (a) persons operating pool plants, (b) persons operating nonpool plants from which approved milk is supplied to the market, and (c) cooperative associations with respect to milk diverted to a nonpool plant or which is delivered to a pool plant in a tank truck owned and operated by, or under contract to, the association, if the association gives prior notice to the market administrator and the plant operator of its intention to be the handler for such milk.

When a cooperative association is the handler for bulk tank milk delivered to the pool plant of another handler, the transaction constitutes an inter-handler transfer. In order to facilitate computation of payments to or from the producer-settlement fund the order should provide for pro rata classification at the pool plant of bulk tank milk for which the association is a handler. This method will expedite the association's report of receipts and utilization. The pool plant operator will be required to pay the association the class prices for milk received. The association, in turn, will be required to settle with the pool through the producer-settlement fund.

(5) *Producer-handler.* The term "producer-handler" would apply to any person who produces milk on his own farm(s) and operates a plant from which milk is distributed in the marketing area but who receives no fluid milk products from sources other than his own farm(s) or from pool plants.

The milk produced by a producer-handler would be exempt from pooling. In view of this, it is necessary in the interest of orderly marketing that the term cover a particular type of operation. A handler whose milk supply is obtained entirely from his own farm production and from pool plants would qualify as a producer-handler, and any handler who obtains part of his milk supply from another dairy farmer or from nonpool plants would not so qualify.

There are not more than two or three producer-handlers distributing fluid milk in the recommended marketing area and their competitive impact on other handlers and on other dairy farmers is not now contributing to market instability. Under this circumstance, market stability will be accomplished provided appropriate conditions are applied to such operations. The order should provide that transfers of milk to producer-handlers from pool plants should be a Class I disposition by the transferor-handler; and receipts of milk at a pool plant from producer-handlers should be other source milk. This classification is appropriate, otherwise producer-handlers would share in the Class I sales of the market without bearing their proper share of the reserve supplies associated with such Class I sales.

The exemption of producer-handlers from pooling may provide incentive for individuals to adopt devices in an attempt to circumvent the order's intent to regulate plants which receive milk from farmers. To preclude the use of such devices the order should provide that, to be a producer-handler, the maintenance, care and management of the dairy animals and all other resources used to produce milk as well as resources used in the processing, packaging, and distribution of the milk be at the sole risk of the person who claims producer-handler status.

A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the status of such person's operation and to facilitate verification of transactions with other handlers.

It was proposed that any producer-handler who during the month disposes of in excess of 30,000 pounds of fluid milk on routes be subject to full regulation. The proponent knew of no producer-handlers operating in the market who were disposing of as much as 30,000 pounds of fluid milk during the month. As previously noted, the number and scope of producer-handlers operating in the market is limited and there is no indication that these operators are contributing to market instability. Therefore, it is not necessary to place a volume limitation on producer-handler enterprises.

(6) *Other source milk.* "Other source milk" is defined in order to distinguish certain milk from producer milk. It would include milk received at a pool plant from nonpool sources and Class II products from any source which are reprocessed or converted to another product in a pool plant during the month. It would also include milk distributed in the marketing area from nonpool plants.

(7) *Additional definitions.* Additional definitions such as "Act", "Secretary", "Department", "Person", "Cooperative association", "Fluid milk product", "Route", and "Chicago butter price" should be included in the order for brevity and clarity in describing the operation of various order provisions. They are self-explanatory.

(b) *The classification and allocation of milk.* Skim milk and butterfat are not used in most products in the same proportions as contained in producer milk and, therefore, it is appropriate that they be classified as Class I or Class II separately according to use. Class prices, however, will apply to each hundredweight of milk and will be adjusted by butterfat differentials according to the butterfat content of the milk used in each class.

(1) *Milk classes.* Class I milk should be defined as all skim milk and butterfat disposed of in those fluid milk products which are now required by health authorities having jurisdiction in the marketing area to be made from Grade A milk. More specifically, Class I milk should be defined to include all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, milk drinks (flavored or plain), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk, yogurt, cream (sweet or sour), and any mixture of milk, skim milk, or cream (except sterilized products packaged in hermetically sealed containers, eggnog, frozen dessert mixes, ice cream mix, aerated cream and cultured sour mixtures other than sour cream).

Fluid milk products which contain concentrated skim milk solids such as skim milk drinks and buttermilk to which extra solids are often added, or unsterilized concentrated whole milk disposed of for fluid use, should be included under the Class I definition. Products such as evaporated or condensed milk which are either packed in hermetically sealed containers or are used in the manufacture of other milk products should not be considered concentrated milk and should not be classified as Class I.

Concentrated and reconstituted milk and skim milk should be classified as Class I including all water originally associated with the milk solids used. Concentrated and reconstituted fluid milk products compete for the same Class I sales as whole milk or skim milk and, if made from other source milk, could displace producer milk which is available for the same purpose. Therefore, accounting for these fluid milk products on the basis of original volume, including all the water originally associated with the solids, is necessary to return to producers a value commensurate with the use and availability of their milk for Class I purposes.

It is also necessary that milk solids used to fortify Class I products be priced as Class I utilization. However, it is not necessary to price as Class I all the water originally associated with the solids. It is not demonstrable that the water associated with the solids used in fortification displaces producer milk in Class I in this market.

To maintain proper accounting for such items, however, the nonfat milk solids added to such fortified items should be converted to their skim milk equivalent and an amount equal to the difference between the skim milk equivalent of the fortified product and the actual weight of the product disposed of in fluid form should be classified as Class II. The skim milk equivalent of such nonfat solids would likewise be considered a receipt of other source milk by the handler. Through the allocation procedures any additional charge to handlers would be eliminated.

Class II milk should include all skim milk and butterfat used to produce any product which is not required to be made from Grade A milk. These products would include butter, cheese, evaporated and condensed milk, nonfat dry milk, cottage cheese, ice cream mix, eggnog, and so called "dip" specialties. In addition to the skim milk equivalent of nonfat solids added to fortified fluid milk products, it should also include the skim component of any fluid milk product which is dumped after prior notification to and opportunity for verification by the market administrator; and skim milk and butterfat used for livestock feed to the extent that appropriate records of such utilization are available.

Butterfat and skim milk used to produce Class II products should be considered disposed of when so used. Handlers will need to maintain stock records of such products, however, to permit audit of the utilization by the market administrator.

Handlers have inventories of milk and fluid milk products at the beginning and end of each month which enter into the accounting of receipts and utilization. Manufactured products on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for. Handlers will need to keep records of such manufactured products but such products will not be included in inventories for the purpose of accounting for current receipts.

Closing inventory would be accounted for as Class II milk. Accordingly, it is necessary to provide a proper method of reclassifying in the following month, the milk in beginning inventory which is used for Class I disposition. The method of reclassifying beginning inventory would be in accordance with the general procedure of giving precedence in Class I assignment to producer milk received during the month. Priority of Class I assignment is then given to receipts of the handler in the previous month from other pool sources which were priced as Class II milk. It may be necessary to determine to what extent in the previous month other source milk became an inventory item. The amount of beginning inventory assigned to Class I milk but not covered by the reclassification charge would be subject to compensatory payments, provided that such payments would not apply to any milk which had been classified and priced as Class I milk under another Federal order.

Allowance of Class II classification would be made for a reasonable amount of shrinkage in recognition that there is some loss of skim milk and butterfat in the processing and distribution of milk. A shrinkage allowance of up to two percent of producer milk is provided. This amount of shrinkage allowance is common under Federal orders and is reasonable for this market.

Milk may be received at a pool plant in tank trucks from other pool plants and from cooperative associations in their capacity as handlers. In this case the maximum shrinkage allowance of two percent would be allocated at the rate of 1.5 percent to the plant where processed, leaving the other 0.5 percent for the shipping plant or cooperative association. This system of applying shrinkage allowance recognizes that relatively little shrinkage occurs in the receiving of milk and relatively more in its processing, bottling and distribution.

No shrinkage would be allowed on producer milk diverted to a nonpool plant inasmuch as such milk is not physically received at a pool plant. No shrinkage would be allowed on receipts of dairy products such as butter, powder, cheese, and cottage cheese curd.

Since it is not feasible to segregate shrinkage of other source milk from shrinkage of producer milk, total shrinkage is prorated between the two on the basis of the respective volumes of receipts. The amount prorated to the producer milk would be classified as Class II utilization only up to a total of two percent and any shrinkage above the two percent maximum would be classified as Class I milk. No Class II limitation is necessary on shrinkage of other source milk since such milk is deducted from the lower use classification under the allocation procedure.

(2) *Transfers.* It is necesary to establish rules for the classification of skim milk and butterfat which are transferred or diverted.

In the case of skim milk and butterfat used in the production of manufactured milk products, Class II classification should be established at the plant where the product is made. Packaged Class I products should be classified as Class I at the transferor plant. Therefore, the rules for classification of transfers need apply only to skim milk and butterfat which are moved in bulk fluid form.

Milk products in bulk fluid form transferred (including that diverted) to another pool plant should be classified as Class I milk unless the operator of each plant indicates in his report to the market administrator that such milk is to be classified as Class II and there is sufficient Class II classification available at the transferee plant pursuant

to the allocation procedure. Class II classification, however, should be subject to the provision that such classification will result in the maximum amount of producer milk at both plants being assigned to Class I milk.

Milk, skim milk, or cream in bulk transferred from a pool plant to a nonpool plant located less than 250 miles by hard surfaced highway from the nearer of the County Courthouses in the cities of Youngstown or Warren should be classified as Class I milk unless the following conditions are met: (i) The handler reports such milk as Class II milk, (ii) the operator of the nonpool plant maintains and makes available, as requested by the market administrator, his books and records which verify Class II utilization, and (iii) the Class I milk disposed of from the transferee plant does not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers approved to supply Grade A milk who are regularly associated with such plant plus receipts of packaged fluid milk items from plants fully regulated by Federal orders. If Class I milk disposed of from the nonpool plant exceeds the sum of such receipts, provision should be made to classify as Class I milk an amount of the transferred or diverted milk equivalent to such excess. Such remaining Class I sales, however, should not result in duplication relative to classification of milk transferred to the nonpool plant from plants regulated by this and other Federal orders. Therefore, the amount of bulk milk moved to such plant and classified as Class I milk from any regulated plant should be not less than that plant's pro rata share of the remaining Class I sales in such nonpool plant.

Milk and skim milk moved by handlers to a nonpool plant located more than 250 miles from the nearer of the County Courthouses in either Youngstown or Warren should be Class I milk. If milk or skim milk moves such distances in fluid form it normally would not be for Class II use. Adequate manufacturing facilities are available within 250 miles and handlers normally would not dispose of reserve milk to manufacturing facilities located beyond this area. It would not be administratively feasible, or economically justifiable, for the market administrator to be required to verify the ultimate uses of shipments of milk made to nonpool plants beyond this prescribed area. The automatic classification as Class I milk will preclude the necessity for such verification.

It is economically feasible to ship cream for nonfluid use to plants beyond the 250-mile limit since cream has a much greater value in proportion to weight than milk. The administrative problem of verifying that the cream delivered to locations outside the specified area is utilized as Class II can be obviated when it can be determined that such shipments can be used for manufacturing purposes only. This can be achieved by specifying that such shipments of cream may not be labeled as "Grade A" and must be invoiced as suitable only for manufacturing purposes. In order to assure that claimed Class II shipments of cream are not labeled Grade A the market administrator should be afforded an opportunity to verify the shipments.

(3) *Allocation.* In order to insure the effectiveness of the classified pricing program, producer milk must have priority in assignment to Class I utilization. The allocation of receipts from different sources to Class I or Class II utilization as set forth in the order will accomplish this objective. The allocation should provide that after setting aside the appropriate allowances for shrinkage of producer milk, the skim milk and butterfat in other source milk should be allocated to Class II utilization before skim milk and butterfat contained in producer milk are so allocated.

It was proposed that other source milk in the form of packaged Class I products received from a plant regulated by another Federal order be given prior allocation to Class I utilization before producer milk. There is no record testimony that such packaged Class I products are received at Youngstown area plants. Accordingly, since packaged Class I products from other Federal orders are not now being received at Youngstown area plants, it is not necessary or desirable for orderly milk marketing to provide prior Class I allocation to such other source milk receipts.

However, other source milk which is priced and pooled as Class I under another Federal order should take priority with respect to the highest utilization over other source milk not so priced and pooled. This will minimize compensatory payments by Youngstown handlers on supplemental milk purchases.

The order should not give prior Class I allocation to packaged Class I items received at a pool plant from a nonpool plant which is regulated pursuant to the terms of an order administered by the Pennsylvania Milk Control Commission.

Pennsylvania orders do not price milk pursuant to the plant of receipt but rather, at least in some instances, according to the area within which it is disposed. Milk from plants regulated under a Pennsylvania order which is disposed of in the Youngstown marketing area is not priced at the same level as is milk disposed of in Pennsylvania from the same plants. Pennsylvania orders do not classify skim milk and butterfat transferred to nonpool plants in the same manner as proposed by the Youngstown-Warren Federal order nor do they classify inventory and disposition of cream in a like manner.

Accordingly, if the Youngstown order afforded prior allocation to Class I of packaged receipts from plants regulated by a Pennsylvania order, the order provisions would not be uniform as to all handlers and the effectiveness of the classified pricing program would not be assured.

Receipts of milk from other pool plants would be subtracted from the Class utilization to which they are assigned pursuant to the transfer provisions.

To achieve proper assignment of Class I utilization to producer milk the sequence of subtractions from Class II utilization should be as follows:

(i) Allowable shrinkage of producer milk;

(ii) Receipts of unpriced other source milk;

(iii) Receipts of other source milk which are classified but not priced as Class I under another Federal order;

(iv) Receipts of other source milk classified and priced as Class I under another Federal order;

(v) Beginning inventory;

(vi) Receipts from other handlers according to classification; and

(vii) Overage.

(c) *Class prices*—(1) *Class I price.* For the first 18 months, the minimum Class I price each month per hundredweight of producer milk containing 3.5 percent butterfat should be the Northeastern Ohio Federal order Class I price for the same month plus 10 cents.

The proponent cooperative proposed that the Class I price each month be determined by adding 25 cents to the Northeastern Ohio Class I price. Youngstown area handlers proposed that the Class I price be the same as that of the Northeastern Ohio order.

The appropriate Class I price is that which will bring forth an adequate and dependable supply of milk for the Youngstown-Warren marketing area. The milk supply of the Youngstown market is adequate but not excessive. It has come from dairy farmers who supply handlers whose primary Class I distribution is the Youngstown area and from dairy farmers supplying handlers whose primary distribution is in other markets but who distribute significant volumes of milk in the Youngstown area. Accordingly, the Youngstown Class I price should be high enough to return to dairy farmers supplying Youngstown handlers a price for their milk which approximates prices received during recent months but it cannot be so high as to give a competitive sales advantage to those handlers whose major business is in another Federally regulated market.

The classification and pricing plan operated in the Youngstown area by the proponent association differs substantially from that of the order recommended herein. Under the association's plan skim milk, chocolate drinks, buttermilk, cream and certain other fluid milk products are not classified and priced as Class I. The remaining fluid milk products which are classified as Class I are priced at a level which is higher than the Class I price of the proposed order. Under the classification and pricing plan of the association, the simple average of prices received by Youngstown area members during the 12-month period ending with August 31, 1960 was about $4.50 per hundredweight of milk containing 3.5 percent butterfat. At the hearing it was estimated that the Class I utilization of Youngstown handlers would be 10 percent greater under Federal order classification and accounting procedures than under the classification and accounting procedure currently used in the market. Using the estimated increased Class I utilization resulting from Federal order classification and applying the recommended Class I and Class II prices the average

of uniform prices which would have been received during this same 12-month period would also have been $4.50.

The Youngstown Class I price level must be aligned with the Class I price in the order regulating the handling of milk in the Northeastern Ohio marketing area. Class I milk from plants regulated by the Northeastern Ohio order is regularly disposed of in the Youngstown area. Some of these plants are located in Cleveland (approximately 65 miles from Youngstown) and others are located in areas nearer to Youngstown. One of the latter plants is located in Cuyahoga Falls which is about 45 miles from Youngstown.

Milk from Northeastern Ohio plants began coming into the Youngstown area three or four years previous to the hearing on which this decision is based. At the time of the hearing, Class I sales from these plants represented a significant share of total Class I sales in the market and their share of the market was increasing. Class I milk from the Northeastern Ohio regulated plant at Cuyahoga Falls is distributed through retail stores. In August 1960, this handler had one retail store operating in the Youngstown area but had eleven more under construction. Because of the nearness of Northeastern Ohio plants to the Youngstown area and because of the expansion of their distribution areas into eastern Ohio, the Youngstown Class I price cannot be any higher than the Northeastern Ohio Class I price plus the cost of transporting milk from Northeastern Ohio to the Youngstown area. It is reasonable to expect that such transportation costs would approximate 10 cents per hundredweight. (The findings and conclusions relative to the cost of moving milk appear later in the decision under the heading "Location differentials".)

(2) *Class II price.* The minimum Class II price each month per hundredweight of milk containing 3.5 percent butterfat should be the basic formula price. The basic formula price is the higher of either the average of the prices paid at selected midwest condenseries or that resulting from a formula based on the market prices of nonfat dry milk solids and butter.

Some milk in excess of Class I requirements is necessary to maintain an adequate supply of milk for the market on an annual basis. The price for this excess or reserve supply of milk should be maintained at the highest level consistent with facilitating its use in manufactured products. The price, however, should not be so low that handlers will be encouraged to procure supplies of Grade A milk solely for manufacturing purposes.

The recommended Class II price for the Youngstown order is the same as the Class III price in the Northeastern Ohio order and the Class II price in the Wheeling order. In view of the fact that the lowest class price in each of the two nearest Federal orders has not been so high as to deter the acceptance for manufacturing purposes of the reserve supply of milk of these markets, it is concluded that the same price for the reserve supply of milk on this market would be appropriate. During the 12-month period beginning with September 1959 and ending with August 1960 the average Class II price would have been $3.08.

(3) *Butterfat differentials.* Class and uniform prices are established for milk containing 3.5 percent butterfat. Therefore, to reflect differences in the value of milk due to variation in butterfat content, it will be necessary to adjust Class I, Class II and uniform prices in accordance with the average butterfat test of milk in each class and of the milk delivered by each producer.

The values obtained by multiplying the average price of 92-score butter at Chicago by .13 for Class I milk and .115 for Class II milk will provide an appropriate basis for adjusting Class I and Class II prices for each one-tenth of one percent variation of butterfat content. These differentials conform with those now in the Northeastern Ohio and Wheeling orders.

The butterfat differential to producers should correspond to the weighted average values of butterfat used for Class I and Class II purposes. This follows the principle of uniform prices to all producers and will reflect changes in the use of butterfat in each class.

(4) *Location differentials.* Class I and uniform prices paid by handlers operating plants located at considerable distance from the market should be subject to minus adjustments to reflect the cost of moving milk to the market. Adjustments to Class I prices at such plants are necessary to equalize the cost of milk to all handlers distributing in the marketing area. Adjustments to producers' prices will recognize the lesser location value of milk which must be transported a considerable distance to the Youngstown market.

No location adjustment should apply at plants located less than 50 miles from the Courthouse in either Youngstown or Warren, Ohio. The area thus circumscribed will insure that no handler operating a plant within, or adjacent to, the major population concentration of the marketing area will have a competitive advantage over any other handler operating a plant which is similarly located.

A handler operating a distributing plant located in Youngstown and a supply plant located in New Wilmington, Pennsylvania proposed that a location adjustment apply to milk received at the New Wilmington plant. The New Wilmington plant is about 30 miles from Youngstown. It would not be appropriate to allow location adjustments on milk received at a supply plant located this close to Youngstown. Milk needed for Class I purposes at the distributing plant may be moved directly to the distributing plant rather than being first received at the supply plant. A supply plant located this close to the major population center of the market is operated at the convenience of the handler.

A location adjustment rate of 10 cents should apply for plants located 50 but not more than 60 miles from the market. This is slightly in excess of 1.5 cents for each 10 miles and should compensate handlers for the higher proportionate cost of moving milk relatively short distances. A rate of 1.5 cents for each additional 10 miles or fraction thereof for plants located more than 60 miles should apply.

The location adjustments herein provided vary slightly from the adjustments contained in either the Wheeling or Northeastern Ohio Federal orders but are consistent with rates contained in most Federal orders and approximate the cost of moving milk on a regular basis in the most efficient manner.

No location adjustment should be allowed on Class II milk. The cost involved in moving manufactured products are minor relative to costs involved in moving whole milk. Manufactured dairy products are much less perishable and the components of manufactured products are usually in concentrated form. Accordingly, there is little value in the milk used for manufacturing purposes which can be equated to plant location.

In computing the aggregate Class I location adjustment allowed at distributing plants on milk received in bulk from distant plants, a method should be provided for allocating Class I utilization. This allocation of Class I should begin with milk received from producers. Receipts (including diversions) from other pool plants which are not subject to location adjustments should be next allocated to Class I and, in sequence, milk received from those plants which have the least location adjustment.

(5) *Equivalent price.* If for any reason a price quotation required for computing class prices or for any other purpose is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Experience has shown that quotations described in the order may not be available at all times. It is concluded that provision for such contingencies should be made by providing for a determination by the Secretary of an equivalent price.

(6) *Provisions with respect to unpriced milk.* During each month when producer receipts are at least 110 percent of Class I sales the order should provide for payments to the producer-settlement fund with respect to unpriced milk which is allocated to Class I at a pool plant. Operators of nonpool distributing plants should have the choice of making payments into the producer-settlement fund or paying to dairy farmers from whom they receive milk the use value of such milk pursuant to the provisions of the order.

At times, despite the availability of producer milk, operators of pool plants may purchase milk for Class I use from sources which are not fully subject to classification and pricing under the terms of any Federal order. Unpriced Grade A milk which is purchased from such unregulated sources by Youngstown handlers will usually represent Grade A milk which is in excess of the demand for Grade A distribution in another market. As surplus, its value in the other market is less than the value of milk used for Class I purposes. If Youngstown handlers were encouraged to purchase such milk and dispose of it for Class I purposes without some compen-

satory feature in the order, such handlers would have a competitive advantage as compared with other Youngstown handlers, and would have incentive to replace regular producer milk with milk which is surplus in another market.

To avoid these deleterious consequences to the orderly marketing of milk in the Youngstown area, it is concluded that handlers operating pool plants at which unpriced other source milk is allocated to Class I when producer milk is available for such use should pay into the producer-settlement fund a compensatory amount which will reflect generally the difference in value between surplus milk from another market and producer milk used for Class I purposes.

The rate of payment to the producer-settlement fund by pool plant operators on unpriced milk allocated to Class I should be equal to the difference between the Class I and Class II prices. It is administratively necessary to use the stated rate of compensatory payment instead of attempting to determine a particular rate in each given case. Pool plants may obtain unpriced milk at a price reflecting its value as surplus milk which would approximate the Class II price under the order. They may obtain other source milk with little or no advance notice from a wide variety of sources. Any attempt to determine the actual cost of such milk to the regulated handler would be complicated by the number of plants involved. Some of the plants supplying the other source milk might be operated by the receiving handler. In which case the interplant billing would be purely arbitrary. There is the possibility of arbitrary billing even where the plants are not under common ownership. In addition, the originating plant would not be subject to the audit and payment provisions of the order. It is, therefore, necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein provided are those which will best effectuate the intent of the Act under current marketing conditions in the area.

Other source milk used in the form of nonfat dry milk or condensed skim milk should be considered to be from a source at the location of the plant where it is used. The transportation cost on such products will be insignificant or relatively minor.

No compensatory payments would apply to unpriced milk allocated to Class I at pool plants whenever producer receipts are less than 110 percent of Class I sales. Whenever producer receipts are less than Class I sales plus a minimum reserve it would not be necessary to apply compensatory payments since it is most probable that milk from alternative sources would also be in short supply and handlers would find it necessary to pay at least order prices for milk from these alternative sources.

No compensatory payment would be required on milk which is classified and priced as Class I under another Federal order. The alignment of Class I prices for the Youngstown market with those in other Federal orders precludes any competitive advantage to Youngstown handlers who purchase other Federal order milk.

Another type of unpriced milk would be that distributed in the marketing area from nonpool plants which are not subject to full regulation under another order issued pursuant to the Act. Such nonpool plants would be of two types—those which are primarily supply plants or manufacturing plants since they dispose of less than half of their receipts of Grade A milk as Class I on routes—and distributing plants which have not qualified as pool plants because, either the operator requested nonpool status or the plant had less than 60 percent of its Grade A receipts as Class I route disposition. The use of other source milk by pool distributors differs in an important respect from its use by nonpool plant operators. Sales on routes in the market by nonpool distributing plants are on a regular basis whereas the purchase of other source milk by pool plants usually occurs only when producer milk is not available or when its purchase appears to offer a temporary competitive advantage.

Accordingly, the operator of the nonpool plant distributing Class I milk on routes in the marketing area should be assessed the difference between the Class I and Class II prices on the volume of Class I milk disposed of in the marketing area. This charge should be made regardless of the percentage of Class I utilization in the pool since there is little, if any, relationship between the supply of producer milk and the volume of sales by nonpool plants. In addition it should be noted that plants primarily engaged in route distribution of Class I milk are nonpool plants only because the operator of such plant so requests.

The charge for the administrative expense assessed on milk from a nonpool plant should be levied only on the Class I milk disposed of in the marketing area from such plant.

(d) *Distribution of proceeds to producers*—(1) *Type of pool.* Returns from the sale of milk should be distributed to producers through a marketwide pool. Under this type of pool all producers delivering to all pool plants are paid the same uniform price based upon the marketwide use of their deliveries.

The proponent cooperative association has operated an individual handler pool in the market. However, this has caused serious problems in that all dairy farmers supplying the market are in competition to supply those plants which have a high Class I utilization and consequently relatively high uniform prices. This has forced some of the dairy farmers to assume the burden of carrying the reserve supply of the market. The use of the marketwide pool under which the lower value of reserve supplies are distributed proportionately among all dairy farmers supplying the market will facilitate the efficient handling of the reserve supply of milk when it is not needed for fluid distribution.

A marketwide pool will also contribute to the flexibility of milk marketing in one important respect. Temporary or seasonal reserves may be shifted between plants either by transfer of the milk or of the producers so as to result in the most economical use of milk and facilities without affecting the prices paid to producers at individual plants.

(2) *Producer-settlement fund.* Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers should pay the difference into the producer-settlement fund; all handlers who are required to pay more to producers than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal except for minor differences that may result from rounding of uniform prices.

In order to accommodate this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be adjusted each month.

(3) *Payments to individual producers and to members of cooperative associations.* Each handler should make final payment to each producer for milk delivered by such producer at the appropriate uniform price on or before the 15th day of the month following receipt of the milk. Provision is made for partial payments on milk received during the first 15 days of the month, such payment to be made on or before the last day of the month the milk is received.

Payments for milk to any producer who is a cooperative association member should be paid by the handler to the cooperative association if the association makes a written request for such payment and if the member producer has given the association written authorization in the form of a contract, or in any other form, to collect such payments. The association's request should also provide for reimbursement of any loss incurred because of an improper claim.

Unless the cooperative association receives payment for the milk marketed on behalf of its producer members it cannot reblend the sales proceeds for milk sold in various outlets. This important function is specifically provided for in the Act.

Handlers should make payments to a cooperative association two days in advance of the time the handler is required to make payments to individual producers in order that all producers may receive payment on the same day.

In making such payment for producer milk to a cooperative association the handler should at the same time furnish the association with a statement show-

ing the name of each producer for whom payment is being made, the volume and the average butterfat content of milk delivered by each such producer, and the amount of, and reasons for, any deductions which the handler withheld from the amount payable to each producer. This statement is necessary to enable the association to make proper distribution of the money to producer members.

(e) *Administrative provisions.* The remaining provisions are of a general administrative nature, are incidental to the other provisions of the proposed order, and are necessary for proper and efficient administration. They provide for the selection of a market administrator, define his powers and duties, provide for an administrative assessment, prescribe the information to be reported by handlers and set forth the rules to be followed in making the computations required. They also prescribe the length of time that records must be retained and provide a plan for the liquidation of the order in the event of termination. They are similar to like provisions of other milk orders, and, except as set forth below, require no comment.

(1) *Records and reports.* Provisions should be included in the order to require handlers to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due for such milk. Time limits must be prescribed for filing such reports. Dates must also be established for the announcement of prices by the market administrator.

It should be provided that the market administrator report to each cooperative association which so requests, the percentage of the class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the utilization of members' milk in each handler's plant will be prorated to each class in the proportion that total receipts of producer milk were used by such handler. These reports are necessary for the cooperative association to market effectively the milk of its members.

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

The order should provide for specific limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision covering the retention of records and limitations of claims is equally applicable in this situation and is adopted as part of this decision.

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

6th: Announcement by the market administrator of the minimum prices for Class I and Class II milk and butterfat differentials for milk delivered during the month;

7th: Submission by handlers of report of monthly receipts and utilization;

10th: Payments to a cooperative association for milk received from it in its capacity as a handler;

11th: Announcement by the market administrator of the uniform prices and notification to handlers of the value of their producer milk, the amounts due and payable from the producer-settlement fund and the amounts due the administrative assessment and marketing services accounts;

12th: Payments by handlers of amounts due to producer-settlement fund;

13th: Payments by the market administrator out of the producer-settlement fund;

13th: Payments to cooperative associations for producer milk delivered by cooperative members; and

15th: Payments by handlers to producers and to the market administrator for expenses of administration and marketing services.

(4) *Expense of administration.* Each handler shall be required to pay to the market administrator as his pro rata share of the cost of administering the order not more than four cents per hundredweight, or such lesser amounts as the Secretary may prescribe, as follows:

(i) Handlers operating pool plants shall pay such amount on milk received from producers and from cooperative associations in their capacity as handlers and on other source milk which is allocated to Class I which is not classified and priced under another Federal order;

(ii) Cooperative associations shall pay such amount on producer milk transferred to nonpool plants; and

(iii) Handlers operating nonpool plants shall pay administrative assessment in accordance with the conclusions previously specified in this decision.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that the cost of administration shall be financed by an assessment on handlers. In view of the manner in which the regulation applies to various handlers and types of handler operations the described application of administrative assessment appropriately assigns a proportionate share of expenses to each handler.

Provision should be made to enable the Secretary to vary the rate of assessment within the prescribed limits without necessitating an amendment to the order whenever experience dictates that a change in the rate is necessary to maintain the revenue of the market administrator at the appropriate level for proper administration of the order.

(5) *Marketing services.* Provision should be included in the order for furnishing to producers marketing services, such as verifying the butterfat tests and weights of producer milk, and furnishing market information. These services should be provided by the market administrator unless such services are provided by a qualified cooperative association for its producer members. The costs should be borne by the producers receiving these services. A marketing service assessment of five cents per hundredweight is necessary for this market. This amount should be deducted from payments to such producers for the use of the market administrator in financing such services. Provision should be made for the Secretary to reduce this rate if experience shows a lower rate will furnish adequate funds for supplying marketing services by the market administrator. In the case of producers for whom a cooperative association is rendering such services, the handler should pay to the cooperative association such deductions as the producer has authorized the cooperative to collect in lieu of the payments to the market administrator.

(6) *Interest payments.* Provision should be made for the payment of interest on amounts due to or from accounts of the market administrator at the rate of one-half of one percent per month, or any portion thereof, that the account is overdue.

Prompt payment of amounts due to or from the market administrator is essential to the operation of order provisions. Interest charges will encourage payment of amounts due on or before the specified date. In view of the specified notice of due dates to interested parties the interest charge should begin the first day of the month next following the due date. Thereafter, it should accrue at the rate of one-half of one percent per month or portion thereof, a reasonable rate to compensate for the cost of borrowing money in accord with business practices.

Interest charges should not be assessed on payments due to cooperative associations. These payments are not within the immediate supervision of the market administrator. He, therefore, cannot positively determine that payments to cooperative associations have not been made on time.

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

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

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will

tend to effectuate the declared policy of the Act;

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

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

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

DEFINITIONS

DEFINITIONS

§ 960.1 Act.

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

§ 960.2 Secretary.

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

§ 960.3 Department.

"Department" means the United States Department of Agriculture.

§ 960.4 Person.

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

§ 960.5 Cooperative association.

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

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

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

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

§ 960.6 Greater Youngstown-Warren marketing area.

"Greater Youngstown-Warren marketing area" (hereinafter called the marketing area) means all the territory included within the perimeter boundaries of Trumbull and Mahoning Counties, Ohio (except Smith Township in Mahoning County); and Perry Township in Columbiana County, Ohio.

§ 960.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority whose milk is:

(a) Received during the month at a pool plant; or

(b) Diverted from a pool plant by a handler to another pool plant or to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act for the account of the handler any day during the months of March through July or to the extent of not more than ten days (five days in the case of every-other-day delivery) during any other month. The milk so diverted to a nonpool plant shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

§ 960.8 Handler.

"Handler" means: (a) Any person in his capacity as the operator of a distributing plant or a supply plant; (b) a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant; or (c) a cooperative association with respect to Grade A milk it receives from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and which is delivered in such tank truck to a pool plant: *Provided,* That such milk shall be deemed to have been received directly from producers at the location of the pool plant to which it is first delivered by the tank truck.

§ 960.9 Producer-handler.

"Producer-handler" means any person who operates a distributing plant at which there is processed milk of such person's own farm production and at which there is received no milk from other dairy farmers and no other source milk in the form of fluid milk products: *Provided,* That such person provides proof satisfactory to the market administrator that (a) the care and management of all the dairy animals and other resources used in such own farm production are the personal enterprise or at the personal risk of such person, and (b) the operation of the processing and distribution facilities is the personal enterprise of and at the personal risk of such person.

§ 960.10 Distributing plant.

"Distributing plant" means a plant at which approved milk is processed, packaged and disposed of during the month

as Class I milk in the marketing area on routes.

§ 960.11 Supply plant.

"Supply plant" means a plant from which approved milk is moved during the month to a distributing plant which is a pool plant but from which no packaged Class I milk is disposed of in the marketing area on routes.

§ 960.12 Pool plant.

"Pool plant" means:

(a) A distributing plant:

(1) From which during the month not less than 50 percent of total receipts of approved milk from dairy farmers, supply plants, and cooperative associations in their capacity as handlers pursuant to § 960.8(c) is distributed as Class I milk on routes and from which not less than 10 percent of such Class I distribution is in the marketing area on routes, or

(2) From which during the month not less than 60 percent of total receipts of approved milk from dairy farmers, supply plants and cooperative associations in their capacity as handlers pursuant to § 960.8(c) is distributed as Class I milk on routes, and whose Class I disposition in the marketing area on routes is insufficient to qualify such plant under subparagraph (1) of this paragraph: *Provided,* That such plant shall be a nonpool plant in any month in which the operator of the plant notifies the market administrator in writing at the time of filing the report pursuant to § 960.30 that he wishes such plant to be designated a nonpool plant for the month;

(b) A supply plant from which during the month not less than 50 percent of approved milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 960.8(c) is shipped to distributing pool plants: *Provided,* That if a plant qualifies as a supply plant pursuant to this section in each of the months of September through January such plant shall be a pool plant until the end of the following August, unless the plant operator requests in writing to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

§ 960.13 Nonpool plant.

"Nonpool plant" means any milk receiving manufacturing or processing plant other than a pool plant.

§ 960.14 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk received:

(a) At a pool plant from producers including that diverted from a pool plant to another pool plant or to a nonpool plant; and

(b) By a cooperative association in its capacity as a handler pursuant to § 960.8 (b) and (c).

§ 960.15 Approved milk.

"Approved milk" means any skim milk and butterfat contained in milk, skim milk or cream which is approved by a duly constituted health authority for distribution as Grade A milk.

§ 960.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, reconstituted milk or skim milk, fortified milk or skim milk up to the weight of an equal volume of modified milk or skim milk of the same butterfat test, yogurt, cream (sweet or sour) or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix, aerated cream and cultured soured mixtures other than sour cream).

§ 960.17 Other source milk.

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

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) opening inventory; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 960.18 Route.

"Route" means disposition of fluid milk products (including disposition through a vendor and sales from a plant or plant store) to a wholesale or retail stop other than to a pool or nonpool plant.

§ 960.19 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 960.25 Designation.

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

§ 960.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 960.27 Duties.

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

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

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

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

(d) Pay out of the funds received pursuant to § 960.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 960.85 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler who after the date on which he is required to perform such acts, has not made reports pursuant to §§ 960.30 and 960.31 or payments pursuant to §§ 960.80 through 960.86;

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

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

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

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

(k) On or before the date specified publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address a notice of the following:

(1) The 6th day of each month, the Class I and Class II milk prices computed pursuant to § 960.51 and butterfat differentials computed pursuant to § 960.52 all for the preceding month; and

(2) The 11th day of each month, the uniform price computed pursuant to § 960.71 and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS, AND FACILITIES

§ 960.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, for each of his pool plants, and each cooperative association which is a handler pursuant to § 960.8 (b) or (c) shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

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

(1) Producer milk;

(2) Fluid milk products received from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 960.8(c);

(3) Other source milk;

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

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section and inventories of fluid milk products on hand at the end of the month; and

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

§ 960.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) On or before the 7th day after the end of each month, each handler, except a producer-handler, who operates a nonpool plant from which fluid milk products are disposed of during the month in the marketing area on routes shall report to the market administrator the quantities of skim milk and butterfat so disposed of, and shall report the information required of handlers operating pool plants pursuant to § 960.30 substituting receipts from dairy farmers for receipts from producers.

§ 960.32 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The days for which milk was received from such producer if less than the entire month;

(4) The average butterfat content of such milk;

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

(b) On or before the day prior to diverting producer milk pursuant to § 960.7 each handler shall report to the market administrator his intention to divert such milk, the date or dates of such diversion and the plant to which such milk is to be diverted.

§ 960.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 960.80(b) shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(a) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(b) On or before the 7th day of the following month:

(1) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(2) The amount or rate and nature of any deductions to be made from payments; and

(3) The amount and nature of payments due pursuant to § 960.84(c).

§ 960.34 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as the market administrator deems necessary to verify or establish the correct data for each month with respect to:

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

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

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

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

§ 960.35 Retention of records.

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

CLASSIFICATION OF MILK

§ 960.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to §§ 960.30 and 960.31 shall be classified each month pursuant to the provisions of §§ 960.41 through 960.46.

§ 960.41 Classes of utilization.

Subject to the conditions set forth in §§ 960.42 through 960.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) and (4) of this section, and

(2) Not specifically accounted for as Class II milk; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventories of fluid milk products on hand at the end of the month;

(3) Disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form;

(4) Disposed of and used for livestock feed or dumped (skim milk portion only) subject to prior notification to and an inspection (at his discretion) by the market administrator;

(5) Contained in that portion of fortified milk or skim milk not classified as Class I milk pursuant to paragraph (a) (1) of this section;

(6) In actual shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 960.47(b)(2) not to exceed the following: Two percent of that received from producers except that diverted to a nonpool plant, plus one and one-half percent of that received from pool plants of other handlers in bulk tank lots or from a cooperative association which is the handler for the milk pursuant to § 960.8(c), less one and one-half percent of that disposed of in bulk tank lots to other plants except that diverted to a nonpool plant; and

(7) In shrinkage of skim milk and butterfat, respectively, allocated to other source milk pursuant to § 960.47(b)(1).

§ 960.42 Responsibility of handlers.

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

§ 960.43 Transfers.

Skim milk and butterfat in fluid milk products transferred or diverted in bulk form from a pool plant or by a cooperative association in its capacity as a han-

dler pursuant to § 960.8 (b) and (c) shall be classified as follows:

(a) As Class I if transferred to a pool plant unless:

(1) The transferee and transferor-handlers claim Class II utilization in their reports submitted pursuant to § 960.30;

(2) The transferee plant has utilization in Class II of an equivalent amount of skim milk and butterfat, respectively, after the subtractions pursuant to § 960.45(a)(4) and the corresponding subtractions pursuant to § 960.45(b): *Provided,* That if the transferee and transferor plants receive other source milk, the classification of the skim milk and butterfat transferred results in the highest valued class utilization to milk of producers; and

(3) The transfer is by a cooperative association in which case the skim milk and butterfat transferred shall be allocated pro rata to each class after the subtraction pursuant to § 960.45 (a)(6) and the corresponding step of § 960.45(b):

(b) As Class I if moved to the plant of a producer-handler;

(c) As Class I (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant which is not the plant of a producer-handler unless:

(1) The transferee plant is located less than 250 miles from the Courthouse in either Youngstown or Warren, Ohio, by shortest highway distance as determined by the market administrator;

(2) The transferor-handler claims classification of such skim milk and butterfat in Class II in this report submitted pursuant to § 960.30; and

(3) The operator of the transferee plant maintains books and records which verify the claimed utilization of skim milk and butterfat to the satisfaction of the market administrator and which are made available if requested by the market administrator;

(d) As Class I (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant to the extent of the following pro rata computation if the skim milk and butterfat is not classified as Class I milk pursuant to paragraph (c) of this section;

(1) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant and classified as Class I milk pursuant to the classification provisions of this part applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who are approved to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant;

(2) From the remaining amount of skim milk and butterfat, respectively, classified as Class I milk at such nonpool plant subtract any Class I milk received in consumer-type packages from a plant fully regulated by this or another Federal order issued pursuant to the Act; and

(3) Prorate the remaining Class I milk to bulk receipts at the nonpool plant from plants which are fully subject to the classification and pricing provisions of this and other Federal milk orders issued pursuant to the Act;

(e) As Class II milk if moved in fluid form as cream to a nonpool plant located more than 250 miles from the Courthouse in either Youngstown or Warren if the following conditions are met:

(1) The transferor-handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

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

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 960.30, and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of such handler, or in the case of a cooperative association, for that milk received pursuant to § 960.8 (b) and (c): *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat solids contained in such product, plus all the water originally associated with such solids.

§ 960.45 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month:

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk classified as Class II milk pursuant to § 960.41(b)(6);

(2) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which is not subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(3) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which are pooled but not priced as Class I under the provisions of another order issued pursuant to the Act;

(4) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in Class II milk which are pooled and priced as Class I under the provisions of another order issued pursuant to the Act;

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

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

(7) Subtract the pounds of skim milk in fluid milk products received from other pool plants and from cooperative associations which are the handlers for the milk pursuant to § 960.8(c) from the pounds of skim milk in the respective classes in which such skim milk is classified pursuant to § 960.43(a); and

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

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

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

§ 960.46 Inventory reclassification.

From any skim milk or butterfat assigned to Class I milk pursuant to § 960.45(a)(5) and the corresponding step in § 960.45(b) subtract in the following order the skim milk and butterfat, respectively, assigned during the preceding month to Class II milk (except shrinkage) pursuant to § 960.45 in:

(a) Producer milk, and

(b) Other source milk classified and priced as Class I milk pursuant to another Federal order.

§ 960.47 Shrinkage.

The market administrator shall allocate shrinkage to each pool plant and to a cooperative association in its capacity as a handler pursuant to § 960.8(c) as follows:

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

(b) Prorate the resulting amounts between (1) skim milk and butterfat in other source milk received in bulk fluid form, and (2) skim milk and butterfat in producer milk (excluding diverted milk) and in bulk fluid receipts from other pool plants and from cooperative asociations in their capacity as handlers pursuant to § 960.8(c).

Minimum Prices

§ 960.50 Basic formula price.

The higher of the prices computed pursuant to paragraph (a) or (b) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which

prices have been reported to the market administrator or to the Department:

Present operator and location

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

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

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

§ 960.51 Class prices.

Subject to the provisions of §§ 960.52 and 960.53, the minimum class prices per hundredweight of milk containing 3.5 percent butterfat to be paid by each handler for milk received at his pool plant from producers during the month shall be determined as follows:

(a) *Class I milk price.* The Class I milk price each month for the first eighteen months beginning with the effective date of this section shall be 10 cents more than the Northeastern Ohio Federal milk order (Part 975 of this chapter) Class I price for the same month.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price computed pursuant to § 960.50.

§ 960.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 960.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the month by 0.13; and

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.115.

§ 960.53 Location differentials to handlers.

For producer milk which is received at a pool plant located 50 miles or more from the County Courthouse in either Youngstown or Warren, Ohio, whichever is nearer by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 960.51(a) shall be reduced at the rate set forth in the following schedule:

Distance (miles):	*Rate per hundredweight (cents)*
50 but not more than 60	10.0
For each additional 10 miles or fraction thereof	1.5

Provided, That for the purpose of calculating such location differential, transfers of milk, skim milk and cream 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 receipts from producers and from cooperative associations in their capacity as handlers pursuant to § 960.8(c), such assignment to transferor plants to be made first to plants at which no location credit is applicable and then in sequence beginning with the plant at which the lowest location differential would apply.

§ 960.54 Rate of compensatory payments.

The rate of compensatory payment per hundredweight shall be calculated as follows: Subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price adjusted by the Class I butterfat differential and the Class I location differential rates set forth in § 960.53 for the location of the plant at which the milk was received from farmers.

§ 960.55 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 960.60 Producer-handler.

Sections 960.40 through 960.47, 960.50 through 960.53, 960.61 through 960.63, 960.70 through 960.74, and 960.80 through 960.87 shall not apply to a producer-handler.

§ 960.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant, except that the operator of such plant shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any plant qualified pursuant to § 960.12(a) which disposes of a lesser volume of Class I milk in the Youngstown-Warren marketing area than in a marketing area where the handling of milk is regulated pursuant to another order issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other order is exempted pursuant to this paragraph from regulation as a pool plant under this part, unless the Secretary determines otherwise;

(b) Any plant qualified pursuant to § 960.12(b) for any portion of the period February through August, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

§ 960.62 Handlers operating nonpool distributing plants.

On or before the 25th day after the end of each month, each handler, except a producer-handler, operating a nonpool distributing plant where the handling of milk is not fully regulated pursuant to another order issued pursuant to the Act shall pay to the market administrator an amount:

(a) For deposit in the producer settlement fund, equal to the hundredweight of skim milk and butterfat disposed of from such nonpool plant as Class I milk in the marketing area on routes multiplied by the rate of payment on unpriced milk pursuant to § 960.54; and

(b) For administrative assessment, equal to the rate specified in § 960.86 multiplied by the hundredweight of such Class I skim milk and butterfat disposed of in the marketing area on routes, unless an administrative assessment is applied to milk at such nonpool plant pursuant to another order issued pursuant to the Act on the same basis as plants fully regulated by such other order.

DETERMINATION OF PRICES TO PRODUCERS

§ 960.70 Computation of the obligation of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler as follows:

(a) Multiply the quantity of producer milk in each class by the applicable class price, as adjusted by location differentials on the amount of milk to which location differential allowance applies pursuant to § 960.53;

(b) In any month when producer receipts are at least 110 percent of Class I sales (excluding duplications), add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 960.45 (a) (2) and (3) and (b) by the rate of compensatory payment as determined pursuant to § 960.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products.

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 960.45 (a) (8) and (b) by the applicable class price; and

(d) Add (1) the amount obtained by multiplying the hundredweight of skim milk and butterfat subtracted pursuant to § 960.46(a) by the difference between the Class II price for the preceding month and the Class I price for the current month, and (2) the amount obtained by multiplying the hundredweight of skim milk and butterfat remaining after the calculation pursuant to § 960.46(b) by the rate of compensatory payments pursuant to § 960.54.

§ 960.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f.o.b. marketing area, as follows:

(a) Combine into one total the obligation computed pursuant to § 960.70 for all handlers who submit reports prescribed in § 960.30 and who are not in default of payments pursuant to §§ 960.80 or 960.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 960.72 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of deductions to be made from producer payments for location differentials pursuant to § 960.73;

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

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

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

§ 960.72 Butterfat differential to producers.

The applicable uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent by which the average butterfat content of his milk is above or below 3.5 percent, respectively, by an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 960.52, dividing by the total butterfat in producer milk and rounding to the nearest tenth of a cent.

§ 960.73 Location differential to producers.

The applicable uniform price to be paid for producer milk received at a pool plant located 50 miles or more from the County Courthouse in either Youngstown or Warren, Ohio, whichever is nearest by shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced at the rates set forth in § 960.53.

§ 960.74 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 960.30 and § 960.31 at his last known address, a statement showing:

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

(b) The uniform price computed pursuant to § 960.71 and the butterfat differential computed pursuant to § 960.72; and

(c) The amounts to be paid by such handler pursuant to §§ 960.62, 960.82, 960.85 or 960.86 and the amount due such handler pursuant to § 960.83.

PAYMENTS

§ 960.80 Time and method of payment.

Each handler shall make payment as follows:

(a) To each producer from whom milk is received during the month and to whom payment is not made pursuant to paragraph (b) of this section:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of each month an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph;

(ii) Less marketing service deductions made pursuant to § 960.85;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer: *Provided,* That, if by such date, such handler has not received full payment from the market administrator pursuant to § 960.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall, on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section: *Provided,* That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association.

(c) On or before the 10th day of the following month for milk received from a cooperative association for which it is a handler pursuant to § 960.8(c) at not less than the value of such milk at the applicable class prices.

§ 960.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 960.62 (a)(1) and (b)(1), 960.82, and 960.84 and out of which he shall make all payments pursuant to §§ 960.83 and 960.84: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 960.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month, each handler, including a cooperative association which is a handler, shall pay to the market administrator any amount by which his obligation as computed pursuant to § 960.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price adjusted by the producer butterfat and location differentials.

§ 960.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which his obligation as computed pursuant to § 960.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 960.84 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, accounts, or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 960.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 960.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary,

and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deduction and the amount of milk for which such deduction is computed for each producer.

§ 960.86 Expenses of administration.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, except producer milk received by a cooperative association as a handler pursuant to § 960.8(c); (b) milk received from a cooperative association as a handler pursuant to §960.8 (c); and (c) other source milk allocated to Class I milk pursuant to § 960.45 (a) (2) and (b). A handler operating a distributing plant which is a nonpool plant shall pay administrative assessment pursuant to § 960.62.

§ 960.87 Adjustment of overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to § 960.82, § 960.83, § 960.85, or § 960.86 shall be increased one-half of one percent on the first of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 960.88 Termination of obligations.

The provisions of this section shall apply to any obligations under this part for the payment of money.

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

(1) The amount of the obligation;

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

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

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

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to § 608c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 960.100 Effective time.

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

§ 960.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 960.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, or any amendments thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 960.103 Liquidation.

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

MISCELLANEOUS PROVISIONS

§ 960.110 Agents.

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

§ 960.111 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 17th day of April 1961.

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

[F.R. Doc. 61-3557; Filed, Apr. 19, 1961; 8:46 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 720]

AIRWORTHINESS DIRECTIVES

Navion, Twin Navion

Pursuant to the authority delegated to me by the Administrator, (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring a more positive means of inspection for cracks in the main landing gear retract link assembly of Navion and Twin Navion aircraft. If cracks are found, defective parts must be replaced

to prevent complete failure and collapse of the gear. Airworthiness Directive 59–4–3 (24 F.R. 3225), and 60–10–9, (25 F.R. 4132), require dye penetrant inspection of the assembly and replacement of defective parts. Since that time reports have been received of the part failing even though the inspection, which was accomplished shortly prior to the failure, showed no indication of a crack. However, the failed part provided evidence that a crack existed sometime before the final failure. In other instances, a magnaflux inspection revealed cracks where the dye penetrant had failed to do so. Accordingly, it is proposed that airworthiness directive 59–4–3 and 60–10–9, be superseded by a new directive to require magnetic particle inspection.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before May 22, 1961, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. The proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

NAVION, TWIN NAVION. Applies to all Navion Serial Numbers NAV–4–2 and above and all Twin Navion aircraft, Camair Model 480, Dauby, Riley, and Temco Models D–16 and D–16A.

Compliance required within the next 50 hours' time in service from the effective date of this directive, unless already accomplished within the last 50 hours' time in service, and every 100 hours' time in service thereafter.

Recent cases of failure indicate that previous inspection of the main landing gear retract link by the dye penetrant method has failed to disclose cracks which were present prior to complete failure of the part. Since this can result in collapse of the gear, the following shall be accomplished:

Inspect by magnetic particle or equivalent, the main landing gear retract link assembly P/N 143–33165–10, for cracks in or near end fitting welds. Replace all defective parts with revised assembly P/N 143–33165–20, or equivalent, having a longer lap-welded center section prior to further flight. This inspection is no longer required after the revised assembly is installed.

(Navion Field Service Bulletin No. 34 dated December 17, 1958, covers this subject.)

This supersedes AD 59–4–3 (24 F.R. 3225), and AD 60–10–9, (25 F.R. 4132).

Issued in Washington, D.C., on April 13, 1961.

OSCAR BAKKE,
Director, Bureau of Flight Standards.

[F.R. Doc. 61–3549; Filed, April 19, 1961; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3–M]

RAYON STAPLE FIBER FROM CUBA

Determination of Sales at Less Than Fair Value

APRIL 14, 1961.

A complaint was received that rayon staple fiber from Cuba was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that rayon staple fiber from Cuba is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The United States Tariff Commission is being advised of this determination.

Statement of reasons. The available information established that the appropriate fair value comparison was between purchase price and the price to countries other than the United States.

Purchase price was calculated by deducting ocean freight, insurance, inland freight, brokerage, commission, and duty from the duty-paid, delivered-mill price to the United States.

The price to countries other than the United States was computed on the basis of the f.o.b. Havana price at which such sales were made.

Purchase price was found to be less than the price to countries other than the United States.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 61–3561; Filed, Apr. 19, 1961; 8:47 a.m.]

[AA 643.3–C]

RAYON STAPLE FIBER FROM WEST GERMANY

Determination of Sales at Less Than Fair Value

APRIL 14, 1961.

A complaint was received that rayon staple fiber from West Germany was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that rayon staple fiber from West Germany, except as to importations of "Cuprama" rayon staple fiber manufactured by the firm of Farbenfabriken Bayer A. G., is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The United States Tariff Commission is being advised of this determination.

Statement of reasons. Home market price and purchase price were determined to be the proper bases of comparison.

Home market prices were determined to be the selling prices of the various manufacturers, less cash and trade discounts, where applicable. Adjustment was made for differences in selling commissions, technical assistance, advertising, warranties, inland freight, and packing costs, where applicable.

Purchase price was determined to be the selling price of each manufacturer less, where applicable, delivery costs, insurance, and duty. The amounts of taxes uncollected or remitted by reason of exportation were added.

Purchase price was found to be less than adjusted home market price, except as to the firm of Farbenfabriken Bayer. The rayon staple fiber sold by this firm consisted entirely of "Cuprama" rayon staple fiber.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 61–3562; Filed, Apr. 19, 1961; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification No. 60, Amdt. 2]

ALASKA

Small Tract Classification

APRIL 13, 1961.

Pursuant to the authority re-delegated to me from Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473) as amended, by the Anchorage Operations Supervisor in an order dated January 19, 1961 (26 F.R. 800), I hereby take the following action:

Effective May 12, 1961, paragraph 1 of Federal Register Document 60–6337 appearing in the issue for July 7, 1960, is hereby further amended to include the following land which was inadvertently omitted:

KENAI AREA

FOR LEASE AND SALE FOR RESIDENTIAL SITES

T. 6 N., R. 11 W., S.M.,
Sec. 34: Lots 9 and 10.

Containing 5 acres.

Having been inadvertently omitted, these two lots were treated as if classified and leases were issued. No lands are being opened to leasing by the terms of this order.

GEORGE E. M. GUSTAFSON,
Lands and Minerals Officer,
Anchorage Operations Office.

[F.R. Doc. 61–3552; Filed, Apr. 19, 1961; 8:46 a.m.]

[W–058208]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 12, 1961.

The Bureau of Reclamation, United States Department of Interior, has filed an application, Serial No. Wyoming 058208, for the withdrawal of the lands described below, from all forms of appropriation under the first form of withdrawal as provided by section 3 of the Act of June 17, 1902 (32 Stat. 388). Grazing administration will remain under the jurisdiction of the Bureau of Land Management until such time as the lands are actually required for reclamation purposes.

The applicant desires the land for reclamation development under the Greybull Flat Unit, Big Horn Basin Division, Missouri River Basin Project.

For a period of thirty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Supervisor, Bureau of Land Management, Department of the Interior, P.O. Box 929, Cheyenne, Wyoming.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 53 N., R. 93 W.,
Sec. 18, Lots 5, 6;
Sec. 19, Lots 2, 3, 4, 7, 8, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 20, Lots 3, 4, 5, 7.
T. 53 N., R. 94 W.,
Sec. 13, Lots 2, 3, SE¼NW¼, E½W½NW¼, E½SW¼, E½NW¼SW¼, SE¼;
Sec. 24, NE¼, N½SE¼, SE¼SE¼.

The above areas aggregate 1,383.98 acres.

DAVID B. MORGAN,
Acting Land Office Manager.

[F.R. Doc. 61–3553; Filed, Apr. 19, 1961; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

WILLIAM M. FIRSHING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

A. Deletions: No change.

B. Additions:

1. Western Development Co. of Del., 65 Sena Plaza, Santa Fe, N. Mex.

2. Hartfield Stores Inc., 1001 So. Olive Street, Los Angeles 15, Calif.

This statement is made as of April 6, 1961.

WILLIAM M. FIRSHING.

APRIL 6, 1961.

[F.R. Doc. 61-3556; Filed, Apr. 19, 1961; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-18]

GENERAL ELECTRIC CO.

Notice of Vacating of Order

Please take notice that the Atomic Energy Commission has vacated the order, dated March 2, 1961, which suspended operations of the Vallecitos Boiling Water Reactor pending review by the Commission of proposed modifications of reactor components.

By letter dated February 8, 1961, General Electric Company advised the Commission that operation of VBWR had been temporarily discontinued so that certain precipitation hardened stainless steel parts may be replaced since certain described material failures had been discovered.

By an order dated March 2, 1961, the Commission ordered General Electric Company to submit to the Commission certain specified details on the proposed replacement of stainless steel components and not to resume operation of the VBWR until authorized by the Commission following evaluation of such information.

The information was provided by General Electric by its submission dated March 23, 1961. Certain additional information also requested was provided.

The Commission reviewed the information provided by General Electric Company and concluded that the replacement items and the corrective action taken are satisfactory. A Commission representative inspected the reactor and observed that the modifications had been effected in accordance with the information submitted.

Accordingly, on April 13, 1961, the Commission vacated the order upon condition that certain tests shall be conducted prior to operation of the reactor at a power level above 100 kilowatts. The company also was advised that the Commission proposes to add described conditions to License No. DPR-1 concerning continuing inspection requirements of control rods, control rod drive mechanisms and associated components to confirm satisfactory performance of the items.

For further details see Docket 50-18, including the AEC's related hazards analysis, on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Commission's related hazards analysis may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 14th day of April 1961.

For the Atomic Energy Commission.

R. LOWENSTEIN,
Acting Director, Division of Licensing and Regulation.

[F.R. Doc. 61-3547; Filed, Apr. 19, 1961; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 12130]

EASTERN-MOHAWK TRANSFER CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing on the above-entitled matter is assigned to be held on April 25, 1961, at 10:00 a.m., e.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Chief Examiner Francis W. Brown and Examiner Franklin M. Stone.

Dated at Washington, D.C., April 14, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 61-3563; Filed, Apr. 19, 1961; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[Amdt. 30]

ORGANIZATION AND FUNCTIONS

Changes of Address in General Safety District Offices

In accordance with the public information requirements of the Administrative Procedures Act, section 22(b) of the Organization and Functions of the Federal Aviation Agency as published on December 24, 1957 (22 F.R. 10499), is amended to revise addresses for certain District Offices:

1. Region 3 relocation of Air Carrier Safety District Office from 2721 East 42d Street, Minneapolis, Minnesota, to 6301 34th Avenue South, Wold Chamberlin Field, Minneapolis, Minnesota.

2. Region 3 change of address of General Safety District Office from P.O. Box 676, Sioux Falls, South Dakota, to Foss Field Tower Building, Sioux Falls, South Dakota.

3. Region 3 relocation of General Safety District Office from 120 East Boulevard North, Rapid City, South Dakota, to the Rapid City Municipal Airport, Rapid City, South Dakota. The mailing address will remain the same: P.O. Box 27.

Issued in Washington, D.C., on April 13, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-3550; Filed, Apr. 19, 1961; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14039; FCC 61M-677]

JAMES A. BATES, JR.

Order Scheduling Hearing

In the matter of James A. Bates, Jr., San Diego, California, Docket No. 14039; suspension of Amateur Radio Operator License (WA6KAM).

It is ordered, This 14th day of April 1961, that David I. Kraushaar will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 30, 1961, in Washington, D.C.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3566; Filed, Apr. 19, 1961; 8:47 a.m.]

[Docket No. 14030; FCC 61M-674]

EAGLE RIVER BROADCASTING CO. AND EAGLE RIVER BROADCASTING CO., INC.

Order Scheduling Hearing

In re application of Walter J. Teich and Kenneth S. Gordon d/b as Eagle River Broadcasting Company (assignor) and Eagle River Broadcasting Company, Inc. (assignee), Docket No. 14030, File No. BAP-520; for assignment of construction permit for Station WERL Eagle River, Wisconsin.

It is ordered, This 14th day of April 1961, that Asher H. Ende will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 14, 1961, in Washington, D.C.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3567; Filed, Apr. 19, 1961; 8:47 a.m.]

[Docket No. 13481; FCC 61M-681]

NATHAN FRANK (WNBE-TV)

Order Continuing Hearing

In re proposal filed by: Nathan Frank (WNBE-TV), New Bern, North Carolina, Docket No. 13481; for specification of transmitter and antenna site.

The Hearing Examiner having under consideration a petition for continuance without date of the hearing in the above-entitled proceeding filed by Nathan Frank (WNBE-TV) on April 13, 1961;

It appearing, that petitioner has amended his proposal before the Commission on the basis of which respondent Richmond Television Corporation has withdrawn its opposition to modification of Frank's construction permit for a TV station on Channel 12 at New Bern, North Carolina and, further, that petitioner has filed with the Commission a petition for reconsideration of the hearing order and termination of the proceeding;

It appearing further, that the hearing should be postponed pending disposition by the Commission of the aforesaid petition for reconsideration and that counsel for all parties concur in the grant of the relief requested;

It is ordered, This 17th day of April 1961, that the Petition for Continuance filed by Nathan Frank (WNBE-TV) is hereby granted and that the hearing previously scheduled to commence April 26, 1961, is continued pending further order in the premises.

Released: April 17, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3568; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket Nos. 14003, 14049; FCC 61-498]

KORD, INC. (KORD)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of KORD, Inc. (KORD), Docket No. 14003, File No. BR-3410, for renewal of license of station KORD, Pasco, Washington; KORD, Inc. (KORD), Pasco, Washington, Docket No. 14049, File No. BP-12944, has 910 kc, 1 kw, Day, requests 910 kc, 5 kw, Day; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of April 1961;

The Commission having under consideration the above-captioned and described applications;

It appearing, that by Order of March 22, 1961 (FCC 61-378), the Commission designated for hearing the above-captioned application for renewal of license on specified issues; and

It further appearing that, except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to construct and operate the requested facilities of KORD as proposed, but that the proposed five kilowatt operation of Station KORD would cause objectionable interference to Stations KISN, Vancouver, Washington, and KXLY, Spokane, Washington; and

It further appearing that, in a prehearing letter dated August 30, 1960, the applicant was advised of the aforementioned interference and that the Commission was unable to find that a grant of the application to increase the power of Station KORD would serve the public interest, convenience and necessity; and

It further appearing that, by letters dated September 19 and 22, 1960, counsel for Stations KISN and KXLY, respectively, advised the Commission that those stations would appear at a hearing on the application to increase power of KORD; and

It further appearing that, by letters dated October 26 and 27, 1960, the applicant replied to the Commission's letter of August 30, 1960, and advised the Commission that additional engineering data would be filed with the Commission, but that no additional data has been received; and

It further appearing that, by letters dated October 22, 1959, and September 19, 1960, the instant applicant and Station KUDY, Seattle, Washington, agree to accept interference that may result from grants of the instant proposal and the KUDY proposal, File No. BP-12809; and

It further appearing that, after consideration of the foregoing and the applicant's reply, the Commission finds that pursuant to section 309(e) of the Communications Act of 1934, as amended, a hearing on the above-captioned application to increase the power of Station KORD is necessary and that consolidation for hearing of said application with the application for renewal of the license of KORD will be conducive to the proper dispatch of the Commission's business; and

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application for increase in power of Station KORD is designated for hearing in a consolidated proceeding with the application for renewal of license of Station KORD at the City of Pasco, Washington, at a time to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KORD and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation of KORD would cause objectionable interference to Stations KISN, Vancouver, Washington, and KXLY, Spokane, Washington, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether, in light of the substantial variance between applicant's programming representations set forth in its application for a construction permit (BP-9717) and its programming operations during the past license period, the Commission can rely upon the applicant's present programming representations.

4. To determine whether, during the past license period, the applicant has provided opportunities for local self-expression consistent with operation in the public interest.

5. To determine, in light of the concentration and number of spot and other announcements broadcast during the past license period, whether applicant's program service was interrupted in a manner and to a degree so as to cause a deterioration in said service contrary to the public interest.

6. To determine whether the applicant's past and proposed overall program service was and is designed to meet the needs and interests of the community it serves.

7. To determine, in light of the evidence adduced with respect to the foregoing issues, whether grant of the above-entitled applications would serve the public interest, convenience and necessity.

It is further ordered, That Star Broadcasting, Inc., and the Northern Pacific Radio Corporation, licensees of Stations KISN and KXLY, respectively, are made parties to the proceeding.

It is further ordered, That this order shall supersede with respect to the issues only the Commission's order of March 22, 1961 (FCC 61-378) which designated for hearing the above-captioned application for renewal of license of Station KORD.

It is further ordered, That in the event of a grant of the instant proposal, File No. BP-12944, permittee shall accept interference from the operation of Station KUDY, Seattle, Washington, as proposed in its application, File No. BP-12809, which was granted by the Commission on December 7, 1960.

It is further ordered, That, to avail themselves of the oportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: April 17, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3569; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket No. 14043; FCC 61-495]

MELODY MUSIC, INC. (WGMA)

Order Designating Application for Hearing on Stated Issues

In re application of Melody Music, Inc. (WGMA), Hollywood, Florida, Docket No. 14043, File No. BR-2855; for renewal of license of Station WGMA, Hollywood, Florida.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of April 1961;

The Commission having under consideration the above-captioned and described application;

It appearing that, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to operate said station; and

It further appearing that the Commission advised the applicant by letter, dated November 27, 1959 and incorporated here by reference, of the character qualifications questions raised by the involvement of Daniel Enright, one of the principals in said applicant, in certain "fixed" quiz shows and afforded said applicant an opportunity to reply thereto; and

It further appearing that the said applicant filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the questions of character qualifications raised in said letter; and

It further appearing that, after consideration of the foregoing and the applicant's replies, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the extent to which Daniel Enright was involved in the preparation or production of "fixed" television quiz shows.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether the applicant, Melody Music, Inc., possesses the requisite qualifications to be a licensee of the Commission.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of said application would serve the public interest, convenience and necessity.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: April 17, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3570; Filed, Apr. 19, 1961; 9:48 a.m.]

[Docket Nos. 12210, 14019; FCC 61M-664]

KENNETH G. PRATHER ET AL.

Order for a Prehearing Conference

In re applications of Kenneth G. Prather and Misha S. Prather, Boulder, Colorado, Docket No. 12210, File No. BP-13380; KDEN Broadcasting Company (KDEN), Denver, Colorado, Docket No. 14019, File No. BP-13119; for construction permits.

On the Hearing Examiner's own motion: *It is ordered*, This 13th day of April 1961, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, on April 26, 1961, at 10:00 a.m., in the offices of the Commission at Washington, D.C.

The applicants should be prepared to discuss their compliance with the local notice requirements of § 1.362 of the Commission's rules, as amended effective December 12, 1960.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3571; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket No. 14036; FCC 61M-676]

SHENANDOAH LIFE STATIONS, INC. (WSLS-FM)

Order Scheduling Hearing

In re application of Shenandoah Life Stations, Incorporated (WSLS-FM), Roanoke, Virginia, Docket No. 14036, File No. BPH-3261; for construction permit (FM).

It is ordered, This 14th day of April 1961, that Asher H. Ende will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 21, 1961, in Washington, D.C.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3572; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket Nos. 14031-14035; FCC 61M-675]

WEXC, INC., ET AL.

Order Scheduling Hearing

In re applications of WEXC, Inc., Depew, New York, Docket No. 14031, File No. BP-12793; Leon Lawrence Sidell, Hamburg, New York, Docket No. 14032, File No. BP-13688; James C. Gleason, East Aurora, New York, Docket No. 14033, File No. BP-14082; De-Lan, Inc., Depew, New York, Docket No. 14034, File No. BP-14084; Seaport Broadcasting Corporation, Lancaster, New York, Docket No. 14035, File No. BP-14085; for construction permits.

It is ordered, This 14th day of April 1961, that Isadore A. Honig will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 14, 1961, in Washington, D.C.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-3573; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket Nos. 14044-14048; FCC 61-497]

WGRY, INC. (WGRY) ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of WGRY, Inc. (WGRY), Gary, Indiana, has 1370 kc, 500 w, Day, req. 1370 kc, 1 kw, Day, Docket No. 14044, File No. BP-13163; KSUM Broadcasting Company (KSUM), Fairmont, Minnesota, has 1370 kc, 1 kw, DA-2, U, req. 1370 kc, 1 kw, 5 kw-IS, DA-2, U, Docket No. 14045, File No. BP-13261; Telegraph Herald (KDTH), Dubuque, Iowa, has 1370 kc, 1 kw, DA-N, U, req. 1370 kc, 1 kw, 5 kw-IS, DA-N, U, Docket No. 14046, File No. BP-13862; Prairie Radio Corporation (WPRC), Lincoln, Illinois, has 1370 kc, 500 w, Day, req. 1370 kc, 1 kw, Day, Docket No. 14047, File No. BP-14206; Central Wisconsin Broadcasting, Inc. (WCCN), Neillsville, Wisconsin, has 1370 kc, 5 kw, Day, req. Increase antenna tower height and remove resistor, Docket No. 14048, File No. BP-14299; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of April 1961;

The Commission having under consideration the above-captioned and described applications;

It appearing, that, except as indicated by the issues specified below, each applicant herein is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that in a prehearing letter dated December 8, 1960, and incorporated herein by reference, the Commission notified the instant applicants and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that WGRY, Inc., submitted a letter dated July 23, 1948, from the Prairie Radio Corporation, licensee of Station WPRC indicating that WPRC agreed to accept any interference that may be caused by WGRY operating with a power of one kilowatt; but that interference may result to the WPRC proposal from the proposed operations of WGRY and KDTH and the existing operation of KWK which may affect 5.95 percent, 5.4 percent and 3.1 percent, respectively, of the population within WPRC's proposed normally protected primary service area; and that although slight common interference may exist to the WPRC proposal from the KDTH and WGRY proposals, the total interference to WPRC may affect in excess of ten percent of the population in the WPRC primary service area in contravention of § 3.28(c)(3) of the Commission rules; and

It further appearing, that KSUM has submitted measurement data purporting to show that extensive interference would not be caused to the existing and proposed operations of Station WCCN; that the Commission's aforementioned letter of December 8, 1960, raised certain questions regarding the measurement data; that by letter of December 22, 1960, the applicant advised the Commission that an appropriate amendment was being prepared but that no such amendment has been submitted; that the Commission is of the opinion that the above-captioned applications should be designated for hearing without further delay; and that KSUM may file an amendment after designation upon a showing of good cause; and

It further appearing that, according to data submitted by WCCN, interference would be caused by the proposals of KDTH and KSUM (affecting 1.1 percent and 10.3 percent, respectively, of the population within the WCCN service area) resulting in a total population loss to the WCCN proposal of 11.3 percent in contravention of § 3.28(c)(3) of the Commission rules; and that, in addition, the WCCN proposal would cause interference to the existing and proposed operations of Station KDTH resulting in losses of 1.05 percent and 2.23 percent of the population within the respective existing and proposed 0.5 mv/m contours; and that, in view thereof, it is necessary to consolidate the WCCN proposal with the other proposals considered herein; and

It further appearing that, after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of each proposal herein and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and the interference that each of the instant proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the following proposals would cause objectionable interference to the existing stations indicated below, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations:

Proposal and Existing Operation

BP–13163 (WGRY); WPRC, Lincoln, Ill., 1370 kc, 500 w, Day.
BP–13261 (KSUM); WCCN, Neillsville, Wis., 1370 kc, 5 kw, Day.
BP–13862 (KDTH); WPRC, and WCCN.
BP–14206 (WPRC); WGRY, Gary, Ind., 1370 kc, 500 w, Day; KWK, St. Louis, Mo., 1380 kc, 5 kw, DA–N, U; WAAP, Peoria, Ill., 1350 kc, 1 kw, DA–2, U.
BP–14299 (WCCN); KDTH, Dubuque, Iowa, 1370 kc, 1 kw, DA–N, U.

4. To determine whether the interference received by each instant proposal from any of the other proposals herein and any existing station would affect more than ten percent of the population within its normally protected primary service area in contravention of § 3.28(c)(3) of the Commission rules and, if so, whether circumstances exist which would warrant a waiver of said Section.

5. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would best provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues which if any, of the instant applications should be granted.

It is further ordered, That KWK Radio, Inc., and the Peoria Broadcasting Company, licensees of Station KWK, St. Louis, Missouri, and WAAP, Peoria, Illinois, respectively, are made parties to the proceeding.

It is further ordered, That WGRY, Inc. (WGRY), Telegraph Herald (KDTH), Prairie Radio Corporation (WPRC) and Central Wisconsin Broadcasting, Inc. (WCCN) are made parties respondent with respect to their existing operations.

It is further ordered, That in the event of a grant of the application of Telegraph Herald (KDTH), the construction permit shall contain the condition that permittee shall submit sufficient field intensity measurement data to prove that radiation has been restricted to essentially 179 mv/m/kw (400 mv/m at 5 kw) during daytime omnidirectional operation.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the respondents, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 17, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61–3574; Filed, Apr. 19, 1961; 8:48 a.m.]

[Docket No. 13973; FCC 61M–680]

YPSILANTI-ANN ARBOR BROADCASTING CO.

Order Continuing Hearing

In re application of Craig E. Davids and Roy W. McLean d/b as Ypsilanti-Ann Arbor Broadcasting Co., Ypsilanti, Michigan, Docket No. 13973, File No. BP–13221; for construction permit.

Pursuant to a prehearing conference in this proceeding held this date: *It is ordered*, This 14th day of April 1961, that the exchange of all exhibits in this proceeding will be accomplished on or before May 5, 1961, and on or before May 11, 1961, respective counsel will notify other counsel of the witnesses that are desired for cross-examination at the time of the hearing. *It is further ordered*, That the hearing herein, now scheduled for April 18, 1961, be, and the same is hereby rescheduled for May 17, 1961, 10:00 a.m., in the Offices of the Commission, Washington, D.C.

Released: April 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61–3575; Filed, Apr. 19, 1961; 8:48 a.m.]

GENERAL SERVICES ADMINISTRATION

[Gen. Reg. 25, Supp. 1]

NONDISCRIMINATION IN EMPLOYMENT; GOVERNMENT CONTRACTS

Interim Exemptions

1. *General.* This supplement provides additional information concerning in-

terim exemptions under Executive Order 10925, dated March 6, 1961. General Regulation No. 25, March 29, 1961, was published in 26 F.R. 2733.

2. *Interim exemptions.* The President's Committee on Equal Employment Opportunity has authorized continuation of the following exemptions and interpretations of the former President's Committee on Government Contracts until such time as the new Committee issues new rules concerning exemptions:

(a) Inclusion of a nondiscrimination provision is not required in Government contracts, the performance of which does not involve the employment of persons.

(b) Inclusion of a nondiscrimination provision is not required in Government contracts to be performed outside the United States where no recruitment of workers within the limits of the United States is involved.

(c) The nondiscrimination provision does not refer to, extend to, or cover the activities or business of the contractor which are not related to or involved in the performance of the contract entered into with the Government.

(d) The inclusion of a Nondiscrimination provision is not required in contracts for the sale of Government real and personal property where no appreciable amount of work is involved.

(e) Contractors need not include the Nondiscrimination provision in subcontracts for standard commercial supplies or raw materials.

3. *Definition of standard commercial supplies.* As used in section 2(e) of this regulation, the phrase "standard commercial supplies" means an article:

(a) Which in the normal course of business is customarily manufactured for stock and is customarily maintained in stock by the manufacturer or any dealer, distributor, or other commercial dealer for the marketing of such article; or

(b) Which is manufactured and sold by two or more persons for general commercial or industrial use or which is identical in every material respect with an article so manufactured and sold.

4. *Effective date.* This supplement is effective immediately.

Dated: April 18, 1961.

JOHN L. MOORE,
Administrator of General Services.

[F.R. Doc. 61-3636; Filed, Apr. 19, 1961; 9:07 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4252]

UNITED INDUSTRIAL CORP. (DELAWARE)

Order Summarily Suspending Trading

APRIL 14, 1961.

The Common Stock, $1 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange, and admitted to unlisted trading privileges on the Detroit Stock Exchange; and

The Series A Convertible Preferred Stock $8.50 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange; and

The Warrants to Purchase Common Stock of United Industrial Corporation (Delaware) being listed and registered on the American Stock Exchange and the Pacific Coast Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in each such security on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspensions are necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such securities, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said securities on the American Stock Exchange, the New York Stock Exchange, the Detroit Stock Exchange and the Pacific Coast Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, April 16, 1961, to April 25, 1961, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 61-3555; Filed, Apr. 19, 1961; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations, (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of ten percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Abetta Sportswear, Inc., Page Mill, Bonney Street, New Bedford, Mass.; effective 3-31-61 to 3-30-62 (women's dresses).

Apparel Mfg. Co. of Jackson, Inc., Scotts Hill, Tenn.; effective 3-30-61 to 3-29-62 (ladies' wash dresses and dusters).

Belhaven Garment Co., Belhaven, N.C.; effective 4-20-61 to 4-19-62 (children's dresses).

Blue Bell, Inc., Prentiss Co., Baldwyn, Miss.; effective 4-1-61 to 3-31-62 (blouses).

Charleston Mfg. Co., Stark Industrial Park, Charleston, S.C.; effective 3-31-61 to 3-30-62 (women's dresses).

Columbo Garment Co., Inc., 158 West Harrison Street, Columbus, Wis.; effective 3-31-61 to 3-30-62 (ladies' slacks).

Cortland Corset Co., Inc., East Court Street, Cortland, N.Y.; effective 3-27-61 to 3-26-62 (corsets, girdles, and foundation garments).

Culler and Oblander, North, S.C.; effective 4-1-61 to 3-31-62 (children's shorts, pedal pushers, blouses, car coats, etc.).

Huntington Mfg. Co., Inc., 629 Tenth Street, Huntington, W. Va.; effective 3-24-61 to 3-23-62 (women's wash dresses).

International Latex Corp., LaGrange, Ga.; effective 4-4-61 to 4-3-62 (girdles, brassieres).

M. T. Co., Spartanburg Hwy., Hendersonville, N.C.; effective 4-1-61 to 3-31-62 (children's and misses' sportswear).

Martin Mfg. Co., Inc., Ramer, Tenn.; effective 3-31-61 to 3-30-62 (men's uniform shirts and jackets).

New Hebron Mfg. Co., New Hebron, Miss.; effective 4-3-61 to 4-2-62 (boys' shirts and pants sets and bath robes).

Perry Mfg. Co., Mt. Airy, N.C.; effective 4-14-61 to 4-13-62 (ladies' and children's blouses, shorts and slacks).

Phillips-Van Heusen Factory, Des Arc, Ark.; effective 4-10-61 to 4-9-62 (men's dress shirts).

Publix Mfg. Corp., Gallitzen, Pa.; effective 3-26-61 to 3-25-62 (men's and boys' sport shirts).

Reliance Mfg. Co., Tyrone, Pa.; effective 3-31-61 to 3-30-62 (men's and boys' cotton work pants).

Robville Mfg. Co., Robersonville, N.C.; effective 3-27-61 to 3-26-62 (boys' pants and shirts).

J. H. Rutter-Rex Mfg. Co., Inc., Columbia, Miss.; effective 3-24-61 to 3-23-62 (work shirts).

Salant and Salant, Inc., South First St., Union City, Tenn.; effective 4-13-61 to 4-12-62 (men's and boys' cotton work pants).

Shane Mfg. Co., Inc., Men's Work Clothing Div., 2015 West Maryland Street, Evansville 7, Ind.; effective 4-1-61 to 3-31-62 (denim overalls).

Sharlan Co., Fountain Inn., S.C.; effective 3-22-61 to 3-21-62 (men's and boys' knit shirts).

Solomon Bros. Co., Camden, Ala.; effective 3-27-61 to 3-26-62 (men's sport shirts).

Solomon Bros. Co., Toxey, Ala.; effective 3-27-61 to 3-26-62 (men's sport shirts).

W. F. Apparel Co., 302 East Main Street, West Frankfort, Ill.; effective 3-31-61 to 3-30-62 (dresses).

Wagener Mfg. Co., Inc., Wagener, S.C.; effective 4-11-61 to 4-10-62 (shirts, robes and cabana sets).

Russell Williams Co., 418–428 West Mahanoy Avenue, Mahanoy City, Pa.; effective 4–4–61 to 4–3–62 (ladies' and misses' dresses and quilted robes).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Brooke Contracting Co. of Clarksville, Inc., 112 East Main Street, Clarksville, Tex.; effective 4–1–61 to 3–31–62; 5 learners (women's work uniforms).

Dee-Mure Brassiere Co., Inc., Lincoln Co., Hamlin, W. Va.; effective 3–23–61 to 3–22–62; 10 learners (brassieres).

Duquesne Mfg. Co., 852 Constitution Boulevard, New Kensington, Pa.; effective 4–1–61 to 3–31–62; 10 learners (women's house dresses, etc.).

Holiday Togs, Inc., Dayton, Tenn.; effective 3–22–61 to 3–21–62; 5 learners (children's play shorts).

Oxford Mfg. Co., Oxford, Miss.; effective 3–31–61 to 3–30–62; 10 learners (boys' semi-dress pants).

Pella Mfg. Corp., 707 East Third Street, Pella, Iowa; effective 3–31–61 to 3–30–62; 10 learners (dungarees, overalls, coveralls, and work shirts).

Scranton Wearing Apparel Co., 614 Wyoming Avenue, Scranton, Pa.; effective 3–27–61 to 3–26–62; 5 learners (men's and children's outerwear, jackets, etc.).

Wilburton Mfg. Co., Fourth and Orange Streets, Mt. Carmel, Pa.; effective 3–23–61 to 3–22–62; 10 learners (dresses and housecoats).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Belhaven Garment Co., Belhaven, N.C.; effective 4–20–61 to 10–19–61; 10 learners (children's dresses).

Charleston Mfg. Co., Stark Industries Park, Charleston, S.C.; effective 3–31–61 to 9–30–61; 10 learners (women's dresses).

Donlin Sportswear, Inc., New Tazewell, Tenn.; effective 3–24–61 to 9–23–61; 40 learners (men's sport shirts).

Ely and Walker, a Division of Burlington Industries, Canton, Miss.; effective 3–29–61 to 9–28–61; 25 learners (men's and boys' sport shirts).

Martin Mfg. Co., Inc., Ramer, Tenn.; effective 3–31–61 to 9–30–61; 20 learners (men's uniform shirts and jackets).

Henry C. Miller Garment Co., Ruckersville, Va.; effective 4–3–61 to 10–2–61; 25 learners (dresses).

Pella Mfg. Corp., 707 East Third Street, Pella, Iowa; effective 4–6–61 to 10–5–61; 10 learners (dungarees, overalls, coveralls and work shirts).

Phillips-Van Heusen Factory, Des Arc, Ark.; effective 4–10–61 to 10–9–61; 50 learners (men's dress shirts).

Reidbord Bros. Co., Lumber Street, Buckhannon, W. Va.; effective 3–20–61 to 9–19–61; 35 learners (men's dress and work trousers).

W. F. Apparel Co., 302 East Main Street, West Frankfort, Ill.; effective 3–31–61 to 9–30–61; 130 learners (dresses).

Wake Garment Co., Inc., 360 East Fourth Street, Wendell, N.C.; effective 3–24–61 to 9–23–61; 20 learners (children's dresses).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.66, as amended).

Premiere Gloves, Inc., Franklin Street, Fultonville, N.Y.; effective 3–27–61 to 3–26–62; 10 learners for normal labor turnover purposes (men's, ladies' and children's fabric gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

Auburn Hosiery Mills, Inc., Number 2, Adairville, Ky.; effective 3–24–61 to 7–18–61; 10 additional learners for plant expansion purposes (seamless) (supplemental certificate).

Broadway Hosiery Mills, Inc., 53 Burton Street, Asheville, N.C.; effective 3–22–61 to 9–21–61; 15 learners for plant expansion purposes (seamless).

Glen Raven Knitting Mills, Inc., Altamahaw, N.C.; effective 4–6–61 to 4–5–62; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned).

Penn-Carol Hosiery Mills, Inc., Mt. Pleasant, N.C.; effective 4–3–61 to 4–2–62; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Penn-Carol Hosiery Mills, Inc., Mt. Pleasant, N.C.; effective 4–3–61 to 10–2–61; 20 learners for plant expansion purposes (seamless).

Se-Ling Mills, a Division of Prestige, Inc., 505 North Third Street, Quincy, Ill.; effective 3–24–61 to 3–23–62; 5 learners for normal labor turnover purposes (seamless).

Se-Ling Mills, a Division of Prestige, Inc., 505 North Third Street, Quincy, Ill.; effective 3–24–61 to 9–23–61; 10 learners for plant expansion purposes (seamless).

Whitmire Hosiery Mills, Inc., Chester Highway, Whitmire, S.C.; effective 3–22–61 to 3–21–62; 5 learners for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11 as amended, and 29 CFR 522.30 to 522.35, as amended).

Huntley Knitting Mills, Inc., Yancey Road, Charlotte, N.C.; effective 4–13–61 to 4–12–62; 5 percent of the total number of factory production workers for formal labor turnover purposes (ladies' sweaters and men's sport shirts).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Almarco, Inc., Fajardo, P.R.; effective 3–1–61 to 2–28–62; 10 learners for normal labor turnover purposes, in the occupations of: (1) hand sewing of covers on baseballs for a learning period of 320 hours at the rates of 47 cents an hour for the first 160 hours and 55 cents an hour for the remaining 160 hours; (2) die and clicker machine operator (cutting covers of baseballs), winding machine operator and pressing machine operator, each for a learning period of 160 hours at the rate of 47 cents an hour (baseballs and softballs).

Becton, Dickinson, Inc. of Puerto Rico, Juncos, P.R.; affective 3–13–61 to 2–5–62; 10 learners for normal labor turnover purposes for basic hand and machine production operations, for a learning period of 480 hours, at the rates of 80 cents an hour for the first 240 hours and 90 cents an hour for the remaining 240 hours (clinical thermometers) (replacement certificate).

Becton, Dickinson, Inc. of Puerto Rico, Juncus, P.R.; effective 3–13–61 to 9–12–61; 21 learners for plant expansion purposes, for basic hand and machine production operations, for a learning period of 480 hours, at the rates of 80 cents an hour for the first 240 hours and 90 cents an hour for the remaining 240 hours (thermometer tubes).

Economy Industries, Inc., Rio Grande, P.R.; effective 3–1–61 to 8–31–61; 17 learners for plant expansion purposes in the occupations of: (1) sewing machine operator and final presser, each for a learning period of 480 hours at the rates of 60 cents an hour for the manufacture of blouses and 63 cents an hour for the manufacture of dresses for the first 240 hours and 70 cents an hour for the manufacture of blouses and 73 cents an hour for the manufacture of dresses for the remaining 240 hours; (2) machine operations other than sewing machine—trimmer for a learning period of 160 hours at the rates of 60 cents an hour for the manufacture of blouses and 63 cents an hour for the manufacture of dresses (ladies' blouses and dresses).

Gordonshire Knitting Mills, Inc., Cayey, P.R.; effective 3–1–61 to 2–28–62; 50 learners for normal labor turnover purposes, in the occupations of: (1) Sweater looping and knitting, each for a learning period of 480 hours at the rates of 75 cents an hour for the first 240 hours and 88 cents an hour for the remaining 240 hours; (2) machine stitching (seaming) for a learning period of 320 hours at the rates of 75 cents an hour for the first 160 hours and 88 cents an hour for the remaining 160 hours (sweaters).

Haddon Corp., Sabana Grande, P.R.; effective 3–1–61 to 2–28–62; 5 learners for normal labor turnover purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 67 cents an hour for the remaining 240 hours (children's play togs).

Haddon Corp., Sabana Grande, P.R.; effective 3–1–61 to 8–31–61; 35 learners for plant expansion purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 67 cents an hour for the remaining 240 hours (children's play togs).

Manuela Mfg. Co., Inc., Naranjito, P.R.; effective 2–20–61 to 2–19–62; 10 learners for normal labor turnover purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours (ladies' sleeping gowns and pajamas).

Manuela Mfg. Co., Inc., Naranjito, P.R.; effective 2–20–61 to 8–19–61; 10 learners for plant expansion purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours (ladies' sleeping gowns and pajamas).

Sprague Caribe Co., Ponce, P.R.; effective 3–13–61 to 10–16–61; 11 learners for normal labor turnover purposes, in the occupations of molder, loader, plastic finisher, solderer, tester, impregnator, rolling machine operator, and pin and preform machine operator; each for a learning period of 240 hours at the rates of 80 cents an hour for the first 240 hours and 90 cents an hour for the remaining 240 hours (paper molded tubular capacitors) (replacement certificate).

Star Kist Caribe, Inc., Mayaguez, P.R.; effective 2–15–61 to 2–14–62; 48 learners for normal labor turnover purposes, in the occupations of tuna fish cleaning and packing, each for a learning period of 160 hours at the rates of 75 cents an hour for the first 80 hours and 88 cents an hour for the remaining 80 hours (canned tuna fish and byproducts).

Star Kist Caribe, Inc., Mayaguez, P.R.; effective 2–15–61 to 8–14–61; 102 learners for plant expansion purposes, in the occupations of tuna fish cleaning and packing, each for a learning period of 160 hours at the rates of 75 cents an hour for the first 80 hours and 88 cents an hour for the remaining 80 hours (canned tuna fish and byproducts).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 7th day of April 1961.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 61-3554; Filed, Apr. 19, 1961; 8:46 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

SAM M. EWING

Appointee's Statement of Changes in Business Interests

The following statement lists the names and concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

No change since last statement, published July 23, 1960 (25 F.R. 7037).

Dated: January 9, 1961.

SAM M. EWING.

[F.R. Doc. 61-3548; Filed, Apr. 19, 1961; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 17, 1961.

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. 37036: *Cement—Maryland and Virginia to official-southern territory border points.* Filed by Traffic Executive Association-Eastern Railroads, Agent (ER No. 2575), for interested rail carriers. Rates on cement, hydraulic, natural or portland, in covered hopper cars, in carloads, from Hagerstown, Md., Lone Star, Norfolk and Rivco, Va., to official-southern territory border points in Kentucky, North Carolina, Virginia and West Virginia.

Grounds for relief: Market competition and short-line distance formula.

Tariffs: Norfolk and Western Railway Company's tariff I.C.C. 9790 and supplement 352 to Agent R. B. LeGrande's tariff I.C.C. 253.

FSA No. 37037: *Substituted service—RF&P, et al., for Roadway Express, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 55), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Kearny, N.J., and Philadelphia, Pa., on the one hand, and Birmingham, Ala., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37038: *Substituted service—RF&P, et al., for R. C. Motor Lines, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 56), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Baltimore, Md., on the one hand, and Atlanta, Ga., Charlotte, N.C., Jacksonville, Fla., and Savannah, Ga., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37039: *Substituted service—RF & P, et al., for R. C. Motor Lines, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 57), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Baltimore, Md., on the one hand, and Charleston, S.C., Jacksonville, Fla., and Savannah, Ga., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37040: *Substituted service—SAL, et al., for Pilot Freight Carriers, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 58), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Philadelphia, Pa., and Charlotte, N.C., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37041: *Substituted service—L & N, et al., for Dixie Highway Express, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 59), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Atlanta, Ga., and New Orleans, La., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37042: *Substituted service—L & N for Dance Freight Lines, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 60), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Atlanta, Ga., on the one hand, and Covington, Ky., Chattanooga and Knoxville, Tenn., on the other, and between Covington, Ky., on the one hand, and Chattanooga, and Knoxville, Tenn., 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 5 to Southern Motor Carriers Rate Conference tariff I.C.C. 34, MF-I.C.C. 1121.

FSA No. 37043: *TOFC service—Iron and steel articles in the southwest.* Filed by Southwestern Freight Bureau, Agent (No. B-8000), for interested rail carriers. Rates on iron or steel billets, as described in the application, loaded in or on trailers and transported on railroad flat cars, between points in southwestern territory, also between points in such territory, on the one hand, and Natchez, Miss., and Memphis, Tenn., on the other, and between points in Colorado and Wyoming, on the one hand, and points in southwestern territory, on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplements 32 and 42 to Southwestern Freight Bureau tariffs I.C.C. 4353 and 4307, respectively.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 61-3559; Filed, Apr. 19, 1961; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

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